



Element 9. State-Based Administrative Complaint Procedures to Remedy Grievances

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

Introduction

To receive any requirements payment pursuant to the Help America Vote Act of 2002 (HAVA), the State of Florida must establish and maintain State-based administrative complaint procedures which meet HAVA's requirements to:

- (1) be uniform and nondiscriminatory;
- (2) provide that any person who believes that there is or will be a violation of any of HAVA's Title III requirements may file a complaint;
- (3) require the complaint to be in writing, sworn and notarized;
- (4) permit complaints to be consolidated;
- (5) hold a hearing on the record at the request of the complainant;
- (6) provide an appropriate remedy if the State determines that there is a violation of any Title III provision;
- (7) if the State determines there is no violation, dismiss the complaint and publish the results of procedures;
- (8) make a final determination on a complaint within 90 days after filing unless the complainant consents to a longer period; and,
- (9) use alternative dispute resolution procedures to resolve the complaint if the State fails to resolve it within 90 days.

Section 402(a): Has Florida complied with the requirements of HAVA Section 402(a) to establish State-based administrative complaint procedures to remedy grievances?

Yes, and no further actions are required.

Appropriate administrative complaint procedures were included in Chapter 2003-415, *Laws of Florida*. Language in the legislation tracked HAVA's language closely. These procedures are similar to administrative procedures in Section 97.023, *Florida Statutes*, for resolving complaints generated by alleged violations of the National Voter Registration Act of 1993 or a voter registration or removal procedure under the Florida Election Code.

Florida's legislation established a new Section 97.0535, *Florida Statutes*, that in addition to tracking HAVA's minimum requirements, included the following additional requirements not specified by HAVA:

- (1) the Department of State would have sole jurisdiction for these purposes and the procedures would be the sole avenue of redress for alleged Title III violations;



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 76

-
- (2) a complaint would have to state the alleged violation and the person or entity responsible for the violation;
 - (3) the Department of State would be required to inform a complainant in writing if a complaint was legally insufficient;
 - (4) proceedings would be exempt from Chapter 120, *Florida Statutes*, (Administrative Procedures Act);
 - (5) a hearing would be held by a hearing officer whether or not a complainant requested a hearing and specific procedures for a hearing were included in the legislation;
 - (6) the hearing officer would direct an appropriate remedy that then would be enforced by the Department of State;
 - (7) mediation would be the alternative dispute resolution method used if a final determination on a complaint was not made within 90 days of filing.

021348



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 77

Element 10. Effect of Title I Payments

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Introduction

Title I of the Help America Vote Act of 2002 (HAVA) is an "early out" money program for use in two areas—improving election administration and the replacement of punch card and lever voting systems. Florida received \$26,028,957 under this "early out" program. The HAVA Planning Committee recommended using Section 101 federal HAVA funds for 2003-2004 activities and a combination of Section 101 and Section 252 HAVA federal funds for activities beginning in the 2004-2005 fiscal year and beyond.

Under Title I, Section 101 funds are to be used to improve election administration. Approved use of funds under this section includes:

- (A) Complying with the requirements under Title III.
- (B) Improving the administration of elections for Federal office.
- (C) Educating voters concerning voting procedures, voting rights, and voting technology.
- (D) Training election officials, poll workers, and election volunteers.
- (E) Developing the HAVA State Plan for requirements payments.
- (F) Improving, acquiring, leasing, modifying, or replacing voting systems.
- (G) Improving polling place accessibility for voters with disabilities or with limited English.
- (H) Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.

Under Title I, Section 102 federal funds are to be used to replace punch card and lever voting systems.

Following the 2000 General Election, the State of Florida assisted counties by investing approximately \$24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 funds in the amount of \$11,581,377 were returned to the state as reimbursement.

The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. The following recommendations are based on the HAVA Planning Committee meetings held to develop the HAVA State Plan.

Section 101. How will Title I payments to Florida be used for activities to improve administration of elections?

021349



The State of Florida is using Title I funds for election reform activities necessary to ensure Florida complies with all HAVA requirements. The following list describes the major areas in which funds are used.

(A) Complying with the requirements under Title III

The Division of Elections will implement a statewide voter registration system to comply with HAVA Title III. The Division of Elections used \$1 million appropriated from Section 101 federal funds for Phase One development of the new Statewide Voter Registration system. Expenditures for Phase One included:

- Consulting fees for conducting a detailed analysis of connectivity infrastructure available in the 67 supervisor of elections' offices and within all affected offices of the departments of State, Law Enforcement and Highway Safety and Motor Vehicles; working with the counties, the three agencies and the advisory board to create minimum and optimum sets of system requirements; assessing infrastructure needs of all stakeholders to serve the system requirements; conducting "gap" analysis; outlining the physical design of the system; estimating costs and implementation plans for each version for the system to be presented to the 2004 Legislature; and developing and publishing the January 2004 report and recommendations for the 2004 Legislature.
- The purchase of hardware and software for project management and system development.
- Expenses incurred by Division of Elections' staff.
- Travel expenses for visits to every supervisor of elections' office and local driver license office.

In addition, Section 101 HAVA funds were used to create nine full time positions necessary for the design, development and implementation of the Statewide Voter Registration system.

(B) Improving the administration of elections for Federal office.

Upon receipt of Title I monies, the HAVA Planning Committee recommended that the Division of Elections use \$250,000 in fiscal year 2003-2004 from Section 101 funds for expenses that include the design and publication of voter registration forms and other election information, translations for all election administration forms and publications, statewide voter education programs and training workshops.

A State-based complaint procedure has been established for anyone who believes that a violation of Title III of the Help America Vote Act has occurred, is occurring or is about to occur. Funds may need to be expended depending on the number and type of complaints filed.



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 79

(C) Educating voters concerning voting procedures, voting rights, and voting technology.

The Florida Division of Elections will use approximately \$9 million over a three year period for voter education programs. In FY 2003-2004, \$2,976,755 was appropriated and distributed to county supervisors of elections for voter education programs. Distribution was based on a funding level per individual voter multiplied by the number of registered voters in each county for the 2002 General Election. To determine the funding level per individual voter, the Division of Elections divided the total amount of funds appropriated in FY 2003-2004 by the total number of registered voters in the State of Florida for the 2002 General Election.

For FY 2004-2005, the Appropriations bill includes \$3,000,000 to be distributed to county supervisors of elections for purposes relating to voter education. No supervisor of elections shall receive any funds until the county supervisor of elections provides to the Department of State a detailed description of the voter-education programs, such as those described above, to be implemented.

FY 2004-2005 funds will be distributed to each eligible county supervisor of elections based on a funding level per voter multiplied by the number of registered voters in the county for the 2004 Presidential Preference Primary. To determine the funding level per individual voter, the Division of Elections will divide the total amount of funds appropriated in FY 2004-2005 by the total number of registered voters in the State of Florida for the 2004 Presidential Preference Primary.

(D) Training election officials, poll workers, and election volunteers.

In the original HAVA plan, the HAVA Planning Committee recommended using HAVA funds in the amount of \$250,000 for poll worker training in each fiscal year 2003-2004, 2004-2005 and 2005-2006. The Florida Legislature, however, did not appropriate HAVA funds for this use in FY 2003-2004 or FY 2004-2005.

The HAVA Planning Committee would like to reinstate its recommendation to use HAVA funds in the amount of \$500,000, beginning with FY 2005-2006, for poll worker training and recruitment, with a 15% match required of each county.



(E) Developing the HAVA State Plan for requirements payments to be submitted under part 1 of subtitle D of Title II.

Title I funds were used to revise the HAVA State Plan in FY 2003-2004. As the State of Florida modifies its plans in future years, HAVA funds may be used.

(F) Improving, acquiring, leasing, modifying, or replacing voting systems.

Florida has already replaced its punch card and lever voting systems. Following the 2000 General Election, the State of Florida assisted counties by investing approximately \$24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 funds in the amount of \$11,581,377 were returned to the state as reimbursement.

The HAVA Planning Committee recommended that the State of Florida utilize some HAVA funds to help counties meet the accessibility requirements under Title III by the January 1, 2006 deadline. The FY 2004-2005 Appropriations Bill states that \$11,600,000 shall be distributed by the Department of State to county supervisors of elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place.

In addition, the HAVA Planning Committee recommends reimbursing counties who have already purchased voting systems that meet the HAVA accessibility for voters with disabilities requirements. The estimated cost for this reimbursement is \$17 million and it is anticipated that Section 252 HAVA funds will be used.

(G) Improving polling place accessibility for voters with disabilities or with limited English.

Under Section 261, HAVA states the Secretary of Health and Human Services shall make a payment to eligible States to be used for making polling places accessible to individuals with disabilities and providing information on this accessibility. The HAVA Planning Committee recommends that these funds be distributed to each county to ensure that individuals with disabilities are provided the same opportunity for access and participation as for other voters.



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 81

During FY 2003-2004, the State of Florida applied for and received a grant from Health & Human Services (HHS) in the amount of \$687,278. Since the Division of Elections did not have budget authority in FY 2003-2004 to spend these dollars, none of the funds have been requested from HHS as of this date. The Division has distributed a survey to all supervisors of elections requesting information regarding the number of polling places that were utilized in the 2004 Presidential Preference Primary. This information will be used to determine the formula for distributing the grant funds to the counties.

The funds will be used as described in the grant application which follows the recommendations in the plan.

The Division of Elections has also been awarded a second grant from Health & Human Services to improve polling place accessibility in the amount of \$492,941.

(H) Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.

Currently, there are no plans to use HAVA funds for establishing a free voting information hotline. If this type of voting information system is desired, it will be the responsibility of each county and monitored by the Division of Elections.

The Division of Elections has already established a voter fraud hotline for individuals who believe they may have witnessed election fraud. In addition, the Division has established a hotline for voters to request voting information.

Section 102. How will payments to Florida be used for the replacement of punch card or lever voting machines?

Following the 2000 General Election, the State of Florida assisted counties by investing approximately \$24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 federal funds in the amount of \$11,581,377 were returned to the state as reimbursement.

021353



Element 11. Help America Vote Act of 2002 (HAVA) State Plan Management

How the State will conduct ongoing management of the plan, except the State may not make any material change in the administration of the plan unless the change—

(A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and

(C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

Introduction

This element of the HAVA State Plan requires Florida to explain how the State of Florida will manage the implementation of the HAVA State Plan and whether it will utilize the same public notice process if any "material change" is made to the administration of the HAVA State Plan.

Section 251(a)(11) How will Florida conduct ongoing management of the HAVA State Plan?

As explained in previous sections of this Plan, the administration of elections in Florida occurs at the State and local levels. The Secretary of State is the Chief Election Officer under Florida law. The Secretary of State as the Chief Election Officer is responsible for the coordination of the State's responsibilities under HAVA Section 253. The Director of the Division of Elections reports to the Secretary of State and will be responsible for the day-to-day monitoring and managing of Florida's HAVA State Plan. The Director has three new positions dedicated to HAVA program management. The scope of responsibilities will range from federal reporting and grant compliance to assistance with voter education, election official training and updating the HAVA State Plan.

Also at the State level, the Secretary of State directs the HAVA Planning Committee to update the HAVA State Plan as required in Section 255. Under Florida's HAVA State Plan, the HAVA Planning Committee is responsible for conducting its business in an open, public forum and for suggesting revisions and updates to the HAVA State Plan.

At the local level, Florida's 67 supervisors of elections will be encouraged to play an active role in the successful implementation of the HAVA State Plan. The Division of Elections will continue to work on a regular basis with local supervisors of elections to develop performance

021354



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 83

goals and measures, new voter registration improvements, new voting systems certification upgrades, statewide voter education programs, election official training, and other activities outlined in Florida's HAVA State Plan.

Section 254(a)(11) If Florida makes any material change in the administration of the HAVA State Plan, will the change—

(A) be developed and published in the Federal Register in accordance with Section 255 in the same manner as the HAVA State Plan;

(B) be subject to public notice and comment in accordance with Section 256 in the same manner as the HAVA State Plan; and

(C) take effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A)?

The State of Florida understands and agrees to comply with the HAVA requirements related to ongoing management of the HAVA State Plan. No material changes in the administration of the plan will be made unless:

- the material change is developed and published in the Federal Register in accordance with Section 255 in the same manner as the HAVA State Plan;
- the material change is subject to public notice and comment in accordance with Section 256 in the same manner as the HAVA State Plan; and
- the material change takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

021355



Element 12. Changes to State Plan for Previous Fiscal Year

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

Introduction

The HAVA State Plan was updated at public meetings held in Orlando, Florida on May 24, 2004 and in Hollywood, Florida on June 4, 2004. The Secretary of State utilized the previous HAVA Planning Committee to make changes. The Collins Center for Public Policy, Inc. was selected in a public competitive process to staff the update process.

The HAVA Planning Committee focused on three types of changes:

1. Substantive changes made by the State of Florida that bring the State into further compliance with HAVA
2. Minor updates that will not affect the State's compliance with HAVA
3. Issues that have arisen that might affect the State's future compliance with HAVA

The HAVA Planning Committee received copies of the original plan. All updates and changes to the original plan from the previous fiscal year were noted as follows:

1. Sections of the plan that were deleted were first shown in a strike-through font
2. Sections of the plan that were new were shown in an underlined font.
3. After the HAVA Planning Committee reviewed and approved the updates, the underline and strike-through fonts were removed.

Section 254(a)(12) When Florida has a HAVA State Plan for the previous fiscal year, will the State of Florida provide a description of how the plan reflects changes from the HAVA State Plan for the previous fiscal year and how the State succeeded in carrying out the HAVA State Plan for such previous fiscal year?

Florida has updated its original HAVA State Plan to bring it into further compliance through legislative action, rule change and updated information. The following chart is a summary on how the HAVA State Plan changed and how the State succeeded in carrying out the HAVA State Plan for the previous fiscal year.



HAVA State Plan Update from Previous Fiscal Year

Element 1-Voting Systems

Florida currently meets all HAVA voting system requirements except with regard to voting systems for voters with disabilities.

Changes	Successes
Voting systems for voters with disabilities: The Legislature appropriated \$11.6 million to help Florida's counties provide one certified accessible voting system for voters with disabilities including blind and visually impaired voters by January 1, 2006.	The Department of State is going beyond HAVA by contracting with a disability relations group to act as a consultant to help implement disability access with the supervisors of elections across the state.

Element 1- Provisional Voting and Voting Information

Florida made six (6) changes to the provisional voting process in order to comply with HAVA by January 1, 2004.

Changes	Successes
Free Access System: Updated state law to require each supervisor of elections to establish a free access system that allows each person who casts a provisional ballot to determine whether his/her provisional ballot was counted and, if not, why. The HAVA Planning Committee concludes that the provisional ballot set forth in HAVA reinforces protections that the NVRA affords voters who move within the registrar's jurisdiction without updating their registration information, the ability to vote. The HAVA Planning Committee would like to offer Florida voters this same certainty and recommends to the Florida Legislature that the meaning of the term "jurisdiction" in Florida Statutes be changed from "precinct" to "county." Voting instructions including how to cast a provisional ballot: The Division of Elections updated and	Systems were established by January 1, 2004 and individuals who voted provisional ballots were given notice of whether their ballot was counted. Proper instructions for voting and casting a provisional ballot were displayed in polling places. Proper instructions for mail-in registrants and first-time voters were displayed in polling places. Proper contact information for any voter alleging their rights were violated was displayed in polling places. The State was in compliance by the required deadline.

021357



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 86

reprinted posters that are displayed in each polling place on election day to include these instructions.

Posting of instructions for mail-in registrants and first-time voters:

The Division of Elections updated and reprinted posters that are displayed in each polling place on election day to include these instructions.

Posting of contact information for voters who allege their rights have been violated:

The Division of Elections updated and reprinted posters that are displayed in each polling place on election day to include these instructions.

Effective date for complying with Provisional Voting and Voting Information Requirements: Requirements were completed by HAVA deadline of January 1, 2004.

Element 1- Voter Registration System

Changes	Successes
The Florida Legislature has directed the Department of State to begin the development of the new Florida Voter Registration System (FVRS) that meets the requirements of HAVA. The Division of Elections has been tasked to develop the specifications for the design and implementation. A project team has been established consisting of supervisors of elections, technical experts and other agency representatives and has approved a five (5) phase project plan to be completed by the HAVA deadline.	<p>The State of Florida received an extension for the development and implementation of the computerized statewide voter registration list from January 1, 2004 to January 1, 2006.</p> <p>The Florida Legislature appropriated \$1.6 million to begin the project design and implementation of the new Florida Voter Registration System and to fund nine positions.</p>

021358



Element 2- Local Government Payments and Activities

Changes	Successes
The State of Florida reimbursed itself with \$11.58 million in Section 102 HAVA funds for replacing outdated voting machines after the 2000 General Election.	<p>The Florida Legislature appropriated \$11.6 million in HAVA funds to assist counties in the purchase of accessible voting systems for each polling place.</p> <p>The Florida Legislature appropriated nearly \$3 million to counties for nonpartisan Voter Education programs.</p>

Element 3- Voter Education

Changes	Successes
<p>An analysis of FY 2003-2004 voter education programs throughout the state indicate a variety of innovative programs are being used.</p> <p>Beginning in 2003, the Florida Legislature expanded its definition of voter education activities for which counties may receive state funds.</p> <p>HB 29B (Chapter 2003-415) requires:</p> <ul style="list-style-type: none">• Education materials to be updated to provide absentee voters with better instructions;• The Department of State and county supervisors of elections to provide more information to absent uniform services voters and overseas voters;• Persons registering to vote be notified of the requirement to provide identification prior to voting the first time;• Written instructions be given regarding the free access system that allows each person who casts a provisional ballot to determine whether their vote counted and, if not, why not;• Supervisors of elections to provide up-to-date information to conform to HAVA	<p>The Florida Legislature appropriated \$3 million for voter education programs for FY 2004-2005.</p> <p>Division of Elections contracted with the Get Out the Vote Foundation, Inc., in the amount of \$247,500 from FY 2003-2004 appropriations.</p> <p>The Florida State Association of Supervisors of Election, through activities of its Get Out the Vote Foundation, will play a major role in educating and training election officials in 2004.</p> <p>To increase poll worker recruitment, the Department has initiated a "Be a Poll Worker" campaign which includes airing public service announcements and distributing "Be a Poll Worker" handouts at Department presentations.</p>

021359



GLENDA E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 88

voting information requirements;

Senate Bill No. 2566 (Chapter 2004-232) required county supervisors of elections to revise the Voter's Certificate and instruction to those voting via an absentee ballot indicating an absentee ballot is no longer required to have his/her signature witnessed.

Senate Bill No. 2346 (Chapter 2004-252) required county supervisors of elections to revise the Early Voting Certificate information indicating a person casting an Early Vote is no longer required to have his/her signature witnessed.

The Division of Election's website enhances voter education through the internet by:

- Voter assistance hotline toll free number
- 2004 national voter registration workshops to be held across the state
- Direct link to Help America Vote Act and HAVA Planning Committee activities
- The results of an election night voter report card (survey)

Under F.S. 101.20, supervisors of elections may mail a sample ballot to each registered elector or each household if done at least 7 days prior to any election, rather than publishing a sample ballot in a newspaper of general circulation.

The HAVA Planning Committee recommended state funding for poll worker training and recruitment but the Florida Legislature in 2004 did not appropriate any funds for either activity.

021360



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 89

Element 4- Voting System Guidelines and Processes

Changes	Successes
There were no changes in this element of the HAVA State Plan.	

Element 5- HAVA Election Fund

Changes	Successes
<p>The HAVA fund has not undergone any structural changes in the way the trust fund was set up.</p> <p>Recent calls from the Florida Auditor General indicate a possible audit during FY 2004-2005.</p>	<p>The Florida Legislature has appropriated funds received for election-related activities as required by HAVA.</p>

Element 6- HAVA Budget

Changes	Successes
<p>The HAVA Planning Committee approved the projected cost of the Florida Voter Registration System and recommended that the Florida Legislature continue funding the development of this project for a estimated total of \$20.6 million through 2008.</p> <p>The HAVA Planning Committee continued to recommend that the State of Florida reimburse counties that have already purchased voting systems that meet the HAVA accessibility requirements for voters with disabilities.</p> <p>The HAVA Planning Committee recommended using \$9 million of HAVA funds during FY 2003-2004, FY 2004-2005 and FY 2005-2006 to develop and implement a state-wide voter education program.</p>	<p>The State of Florida reimbursed itself with \$11.58 million in Section 102 HAVA funds for replacing outdated voting machines after the 2000 General Election.</p> <p>The Florida Legislature appropriated \$1.6 million in FY 2003-2004 to begin the development of the Florida Voter Registration System which will meet HAVA requirements.</p> <p>The Florida Legislature appropriated \$11.6 million in HAVA funds, in FY 2004-2005, to assist counties in the purchase of accessible voting systems for each polling place by January 1, 2006.</p> <p>The Florida Legislature appropriated nearly \$3 million to counties for nonpartisan Voter Education programs in FY 2003-2004 and FY 2004-2005.</p>

021361



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 90

<p>The HAVA Planning Committee recommended using \$500,000 for FY 2005-2006 in a matching grant program for counties to conduct election official and poll worker training.</p> <p>The HAVA Planning Committee did not recommend renewing its recommendation to develop a statewide poll worker recruitment campaign.</p> <p>The HAVA Planning Committee recommended continued funding of the three positions providing administrative oversight for HAVA.</p> <p>The HAVA Planning Committee recommended funding future HAVA Planning Committee meetings at \$30,000 for each fiscal year through FY 2005-2006.</p> <p>The HAVA Planning Committee recommended funding the following future activities:</p> <ol style="list-style-type: none">1. continued development and expansion of the Florida Voter Registration System2. future improvement to voting technology3. continued funds for county voter education programs4. accessibility for polling places5. poll worker recruitment and training.	<p>The Florida Legislature funded three positions to provide administrative oversight for HAVA in FY 2003-2004.</p>
---	---

Element 7- Maintenance of Effort

Changes	Successes
The State of Florida exceeded the Maintenance of Effort payments for FY 2003-2004 and FY 2004-2005.	The State of Florida provided funds of just over \$3,082,224 for election activities in order to meet the HAVA Maintenance of Efforts requirement.



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 91

Element 8- Performance Measures

Changes	Successes
<p>The HAVA Planning Committee approved performance measures for the following plan elements:</p> <ol style="list-style-type: none">1. Voting systems2. Voting systems guidelines3. Absentee instructions4. Voting Systems for voters with disabilities5. Provisional voting6. Voter registration7. Voter Education8. Administrative complaint process	

Element 9-Administrative Complaint Process

Changes	Successes
<p>There were no changes for this element of the HAVA State Plan.</p>	

Element 10- Effect of Title One Payments

Changes	Successes
<p>Florida received \$26,028,957 in Title I funds.</p> <p>These Title I, Section 102 funds were returned to the state as reimbursement for funds invested in the counties to replace outdated voting machines following the 2000 General Election instead of being distributed to counties as recommended by the HAVA Planning Committee.</p> <p>Title III funds were used as recommended by the HAVA Planning Committee to begin development of the statewide voter registration system.</p> <p>Title I funds were used as recommended by the HAVA Planning Committee for voter</p>	<p>The Division of Elections used \$1 million for Phase 1 of the new voter registration system.</p> <p>The Division of Elections distributed \$3 million to Florida counties for voter education activities and is scheduled to distribute an</p>

021363



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 92

<p>education programs over a two year period.</p> <p>The Florida Legislature did not appropriate HAVA funds for use in training election officials and poll workers as recommended by the HAVA Planning Committee.</p> <p>The Florida Legislature appropriated \$11.6 million for distribution to supervisors of elections for the purchase of equipment which is accessible to persons with disabilities.</p>	<p>additional \$3 million in FY 2004-2005.</p> <p>Funds will be distributed to supervisors of elections to purchase equipment which is accessible to persons with disabilities.</p> <p>The State of Florida applied for and has been awarded two grants from Health & Human Services in the amount of \$687,278 and \$492,941 to be used for making polling places accessible to individuals with disabilities.</p> <p>The Division of Elections has distributed a survey to all supervisors of elections requesting information regarding the number of polling places that were utilized in the 2004 Presidential Preference Primary in order to determine the formula for distributing grant funds to counties.</p>
--	--

Element 11- HAVA State Plan Management Section

Changes	Successes
The HAVA Planning Committee updated this element to reflect the three new HAVA oversight positions in the Division of Elections	The Division of Elections created three new positions and hired staff in FY 2003-2004 to oversee the HAVA State Plan implementation and reporting.

Element 12- HAVA Changes in State Plan for Previous Fiscal Year

Changes	Successes
The HAVA State Plan was updated to reflect changes from FY 2003-2004.	

021364



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 93

Element 13- HAVA State Plan Development and Planning Committee

Changes	Successes
<p>The HAVA Planning Committee met twice in 2004 to update the HAVA State Plan.</p> <p>The HAVA Planning Committee welcomed three new members:</p> <ol style="list-style-type: none">1. Brenda Snipes, Supervisor of Elections for Broward County2. Constance Kaplan, Supervisor of Elections for Miami-Dade County3. Jennifer Carroll, State Representative from District 13	



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 94

Element 13. State Plan Development and HAVA Planning Committee

A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

Introduction

To comply with the requirements of the Help America Vote Act of 2002 (HAVA), the HAVA State Plan must be developed by the chief State election official through a committee of appropriate individuals. After a preliminary plan is developed, it must be published for public inspection and comment. State officials must take public comments into account in preparing the HAVA State Plan submitted to the Federal Elections Commission.

Section 255: Has Florida complied with the requirements of section 255(a) to have the chief State election official develop the HAVA State Plan through a committee of appropriate individuals?

Yes, and no further actions are required.

Florida's Chief State Election Official, Secretary of State Glenda Hood, has the responsibility under HAVA to develop the HAVA State Plan with the assistance of the statewide HAVA Planning Committee. Section 255(a) of HAVA requires that "The chief State election official shall develop the HAVA State Plan under this subtitle through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the State, other local election officials, stakeholders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official."

Members of the HAVA Planning Committee for the State of Florida, appointed by Secretary of State Hood, are as follows:

Chairman:

Jim Smith of Leon County, former Secretary of State and former Attorney General

Chief Election Officials of the Two Most Populous Jurisdictions within the State:

Brenda Snipes, Supervisor of Elections for Broward County

Constance Kaplan, Supervisor of Elections for Miami-Dade County

Other Local Election Officials:

Kurt Browning, Supervisor of Elections for Pasco County

Susan Gill, Supervisor of Elections for Citrus County

Shirley Green Knight, Supervisor of Elections for Gadsden County

021366



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 95

Stakeholders/Representatives of Groups of Individuals with Disabilities:

Dave Evans, State Board Member of the National Federation of the Blind

Jim Kracht, Assistant County Attorney for Miami-Dade County and member of the American Blind Lawyers Association, American Council of the Blind and the Florida Council of the Blind

Richard LaBelle, Secretary of the Florida Coalition on Disability Rights

Other Stakeholders and Citizens:

Joe Celestin, Mayor of the City of North Miami

Anna Cowin, State Senator from District 20

Jane Gross, President of the Florida League of Women Voters

Jennifer Carroll, State Representative from District 13

Arthur Hernandez, Vice Chairman of the Jacksonville Mayor's Hispanic American Advisory Board

Percy Luney, Dean and Professor of Law at Florida A&M University

Reggie McGill, Human Relations Director for the City of Orlando

Isis Segarra, private citizen from Hillsborough County

Lori Stelzer, Former President of the Florida Association of City Clerks and City Clerk for the City of Venice

Raiza Tamayo, Regional Director of the United States Hispanic Chamber of Commerce

This HAVA Planning Committee convened two times in public meetings to update the State Plan—Orlando, Florida on May 24, 2004 and Hollywood, Florida on June 4, 2004. All meetings were noticed in the *Florida Administrative Weekly*. Members of the public and press were welcomed at the meetings. The HAVA Planning Committee heard public comment at each meeting. It was assisted by a non-profit, non-partisan organization, the Collins Center for Public Policy, Inc., that was selected in a public bidding process to serve as staff for the HAVA Planning Committee in updating the HAVA State Plan, and by the Division of Elections of the Florida Department of State.

The HAVA Planning Committee operated in an open process with public deliberations, systematic procedures in accordance with *Robert's Rules of Order*, and majority vote of members who were present when votes were taken. A majority quorum of HAVA Planning Committee members was present for the Orlando meeting. At the Hollywood meeting, the HAVA Planning Committee was one member short of meeting a majority quorum. As a result, members present at the Hollywood meeting conducted a workshop on the proposed changes. At the end of the meeting, the nine HAVA Planning Committee members in attendance moved to approve the changes they had discussed. The Collins Center then obtained approval from the members not present at the Hollywood meeting to incorporate the changes into the working draft. The HAVA Planning Committee received two drafts of the final plan before voting to approve the updates and sending the plan to the Division of Elections.

021367



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 96

The Collins Center, as staff, prepared written materials for the meetings, made presentations to focus the HAVA Planning Committee on decisions that needed to be made, and took notes of all meetings. A formal transcript of each meeting also was made. All agendas and other published materials for meetings of the HAVA Planning Committee were made available at the meetings. The website of the State Division of Elections also included much of this material.

All meetings were held in accessible facilities and were compliant with the Americans with Disabilities Act. Closed captioning service was available at all meetings. Agendas were printed in Braille as well as Spanish and Creole.

Section 256: Will Florida comply with the requirement of Section 256 to have the HAVA State Plan meet the public notice and comment requirements of HAVA?

Yes, and no further actions are required.

Section 256 of HAVA requires that the HAVA State Plan meet the following public notice and comment requirements:

- (1) not later than 30 days prior to the submission of the plan, the State shall make a preliminary version of the plan available for public inspection and comment;
- (2) the State shall publish notice that the preliminary version of the plan is so available; and
- (3) the State shall take the public comments made regarding the preliminary version of the plan into account in preparing the plan which will be filed with the Election Assistance Commission.

After the final updated HAVA State Plan is submitted to the Election Assistance Commission, that Commission shall cause the HAVA State Plan to be published in the Federal Register in accordance with Section 255(b).

These tasks were performed by the Division of Elections and not by the HAVA Planning Committee or its consultants. The work of the HAVA Planning Committee and its consultants was completed when a preliminary version of the HAVA State Plan was prepared, approved by the HAVA Planning Committee, and submitted to the Secretary of State.

After notice is given in the *Florida Administrative Weekly*, the preliminary version of the HAVA State Plan will be posted on the Department of State's and the Governor's websites. A link is available on the Department's website so that public comment can be made electronically. Public comments also will be received by U. S. mail. Public comments will be considered in preparing the final plan.

021368



GLEND A. HOOD
 SECRETARY OF STATE
 STATE OF FLORIDA

STATE OF FLORIDA
 HAVA PLAN UPDATE / 97

Help America Vote Act of 2002 State Plan Chart

Help America Vote Requirement	Status: 2003 HAVA State Plan				Status: As of 6/4/04
	Meets	Partially Meets	Does Not Meet	Described in Plan	
Voting Systems--Section 301 Compliance January 1, 2006)					
Verify Ballot	X				Meets
Change or Correct Ballot	X				Meets
Prevent Overvotes	X				Meets
Absentee instructions	X				Meets
Absentee privacy and confidentiality	X				Meets
Paper record for audits	X				Meets
Systems for voters with disabilities		X			Partially meets
Future voting systems purchases comply with HAVA	X				Meets
Alternative language accessibility	X				Meets
Comply with FEC error rates	X				Meets
Define what constitutes a vote	X				Meets
Provisional Voting and Voter Information--Section 302 (Compliance January 1, 2004)					
Laws require notification to cast provisional ballot	X				Meets
Provisional ballots permitted with written affirmation of voter eligibility	X				Meets
Provisional ballots given to election officials for determination	X				Meets
Provisional ballots counted if voter is determined to be eligible	X				Meets
Voters provided information to ascertain if provisional ballot counted	X				Meets
"Free access system" provided to ascertain if provisional ballot counted	X				Meets
Sample ballots are posted for election	X				Meets
Date of election and polling place hours are posted	X				Meets
Voting instructions and provisional voting instructions are posted on election day	X				Meets
Voting instructions for mail-in registrants and first-time voters on election day	X				Meets
Voting rights information and provisional ballot information posted	X				Meets
Contact information posted for voters whose rights have been violated	X				Meets
Information posted on prohibition of fraud and misrepresentation	X				Meets

10569



GLEND A. HOOD
 SECRETARY OF STATE
 STATE OF FLORIDA

STATE OF FLORIDA
 HAVA PLAN UPDATE / 98

Help America Vote Requirement	Status: 2003 HAVA State Plan				Status: As of 6/4/04
	Meets	Partially Meets	Does Not Meet	Described in Plan	
Provisional ballots segregated for those who vote after special extended poll hours	X				Meets
Voter Registration--Section 303 (Compliance January 1, 2004 or extension January 1, 2006)	Meets	Partially Meets	Does Not Meet	Described in Plan	
Single, uniform, official centralized, interactive computer statewide, voter registration list			X		Does not meet
Can Florida meet January 1, 2004 deadline? Need to apply for January 1, 2006 waiver	X				Meets
HAVA's ID requirements for voters who register by mail and not previously voted	X				Meets
HAVA's requirement for voter registration language in mail registration forms	X				Meets
Local Government Payments and Activities [Section 254(a)(2)]	Meets	Partially Meets	Does Not Meet	Described in Plan	
Describe criteria for funding				X	Updated
Describe methods to monitor performance				X	Updated
Voter Education [Section 254(a)(3)]	Meets	Partially Meets	Does Not Meet	Described in Plan	
Describe voter education programs to support Title III				X	Updated
Describe election official education and training to support Title III				X	Updated
Describe poll worker training to support Title III				X	Updated
Voting System Guidelines and Processes [Section 254(a)(4)]	Meets	Partially Meets	Does Not Meet	Described in Plan	
Describe Florida's voting system guidelines and processes consistent with Section 301				X	Meets
HAVA Election Fund [Section 254(a)(5)]	Meets	Partially Meets	Does Not Meet	Described in Plan	
Describe how Florida will establish a HAVA fund				X	Updated
Describe how Florida will manage the HAVA fund				X	Updated
Florida's HAVA Budget [Section 254(a)(6)]	Meets	Partially Meets	Does Not Meet	Described in Plan	
Describe costs of activities to meet Title III				X	Updated
Describe portion of requirements payment to carry out requirements activities				X	Updated
Describe portion of requirements payment to carry out other activities				X	Updated
Florida's Maintenance of Effort [Section 254(a)(7)]	Meets	Partially Meets	Does Not Meet	Described in Plan	
Describe how Florida will maintain election expenditures at the 1999-2000 FY				X	Updated

021370



GLEND A E. HOOD
 SECRETARY OF STATE
 STATE OF FLORIDA.

STATE OF FLORIDA
 HAVA PLAN UPDATE / 99

Help America Vote Requirement	Status: 2003 HAVA State Plan				Status: As of 6/4/04
	Meets	Partially Meets	Does Not Meet	Described in Plan	
Florida's Performance Goals and Measures [Section 254(a)(8)]					
Describe how Florida will adopt performance goals measures to determine HAVA success				X	Updated
Administrative complaint process [Section 254(a)(9)]					
Established a state-based administrative complaint process to remedy grievances	X				Meets
Effect of Title I Payments [Section 254(a)(10)]					
Describe how Title I payments will affect activities of HAVA plan				X	Updated
HAVA State Plan Management [Section 254(a)(11)]					
Describe how Florida will manage plan and make material changes to plan				X	Updated
HAVA State Plan for Previous Fiscal Year [Section 254(a)(12)]					
Describe how this year's plan changed from the previous fiscal year				X	Updated
HAVA State Plan Development and Planning Committee [Section 254(a)(13)]					
Describe the committee and procedures used to develop the HAVA plan				X	Updated

021371



GLEND E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 100

Appendix A

INSTRUCTIONS TO VOTERS

1. Polls open at 7 a.m. and close at 7 p.m.
2. Sample ballots will be posted in the polling room for your information.
3. When you enter the polling room and before being permitted to vote, you are required to present a photo ID with signature. If you do not have the proper ID, you will be allowed to sign an affidavit and vote.
4. If you are a first-time voter who registered by mail and have not already provided identification to the supervisor of elections, you must provide a photo ID with signature. If you do not have the proper ID, you are allowed to vote a provisional ballot.
5. If you need instructions on how to use the voting equipment, ask a poll worker to assist you. After you have been given instructions, the officer assisting you will leave so that you can cast your vote in secret.
6. You are required to occupy the voting booth alone, unless you requested assistance at the time of registration or when you signed in at the polls.
7. When you are finished marking your ballot, take your ballot and put it into the precinct tabulator.
8. After you cast your vote, you are required to leave the polling room and you will not be allowed to re-enter.
9. If your eligibility is questioned or you are a first-time voter who registered by mail and do not have a photo ID, you will be allowed to vote a provisional ballot. Once you have voted your provisional ballot, place it in the envelope provided to you and fill out the Voter's Certificate on the back of the envelope. Do not put your ballot through the precinct tabulator. Your ballot will be presented to the County Canvassing Board for a determination as to whether your ballot will be counted.
10. The poll workers possess full authority to maintain order in the polling area.

DS-DE 67 OS
1/04



STATE OF FLORIDA

021372



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 101

Appendix B

INSTRUCTIONS TO VOTERS

1. Polls open at 7 a.m. and close at 7 p.m.
2. Sample ballots will be posted in the polling room for your information.
3. When you enter the polling room and before being permitted to vote, you are required to present a photo ID with signature. If you do not have the proper ID, you will be allowed to sign an affidavit and vote.
4. If you are a first-time voter who registered by mail and have not already provided identification to the supervisor of elections, you must provide a photo ID with signature. If you do not have the proper ID, you are allowed to vote a provisional ballot.
5. If you need instructions on how to use the voting equipment, ask a poll worker to assist you. After you have been given instructions, the officer assisting you will leave so that you can cast your vote in secret.
6. You are required to occupy the voting booth alone, unless you requested assistance at the time of registration or when you signed in at the polls.
7. When you are finished voting your ballot, be sure to press the VOTE or CAST BALLOT button to cast your vote.
8. After you cast your vote, you are required to leave the polling room and you will not be allowed to re-enter.
9. If your eligibility is questioned or you are a first-time voter who registered by mail and do not have a photo ID, you will be allowed to vote a provisional ballot. Once you have marked this paper ballot, place it in the envelope provided to you and fill out the Voter's Certificate on the back of the envelope. Your ballot will be presented to the County Canvassing Board for a determination as to whether your ballot will be counted.
10. The poll workers possess full authority to maintain order in the polling area.

DS-DE 66 TS
1/04



STATE OF FLORIDA

021373



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 102

Appendix C

INSTRUCCIONES PARA LOS VOTANTES

Instrucciones para los votantes

1. Las urnas abren a las 7:00 a.m. y cierran a las 7:00 p.m.
2. Para su información, las boletas de muestra estarán desplegadas en el salón de votaciones.
3. Cuando usted entre al salón de votación y antes de que se le permita votar, a usted se le requerirá presentar una identificación con foto y firma. Si usted no tiene la identificación adecuada, a usted se le permitirá firmar una declaración jurada y votar.
4. Si usted es un votante que vota por primera vez y que se ha registrado por correo y aún no ha provisto ya la identificación al supervisor de elecciones, usted deberá proveer una identificación con foto y firma. Si usted no tiene la identificación adecuada, a usted se le permite votar una boleta provisional.
5. Si usted necesita instrucciones sobre cómo usar el equipo de votación, pídale a un trabajador de las urnas que le ayude. Luego que a usted se le hayan dado instrucciones, el oficial que le ayuda se alejará, para que usted pueda echar su voto en secreto.
6. A usted se le requiere ocupar la caseta de votación solo(a), a menos que usted haya pedido ayuda al momento del registro o cuando usted firmó al llegar a las urnas.
7. Cuando usted termine de marcar su boleta, lleve su boleta y póngala en el tabulador del precinto.
8. Luego que usted eche su voto, a usted se le requerirá abandonar el salón de votación y no se le permitirá volver a entrar.
9. Si su elegibilidad es cuestionada o si usted es un votante que vota por primera vez que se registró por correo y no tiene una identificación con foto, a usted se le permitirá votar con una boleta provisional. Una vez usted haya votado con su boleta provisional, colóquela en el sobre que se le proveyó y llene el *Voter's Certificate* (Certificado del Votante) al dorso del sobre. No coloque su boleta a través del tabulador del precinto. Su boleta será presentada al *County Canvassing Board* (Junta Examinadora del Condado) para una determinación en cuanto a contar su boleta o no.
10. Los trabajadores en las urnas poseen plena autoridad para mantener el orden en el área de votación.

DS-DE 75 OS
1/04



STATE OF FLORIDA

021374



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 103

Appendix D

INSTRUCCIONES PARA LOS VOTANTES

1. Las urnas abren a las 7:00 a.m. y cierran a las 7:00 p.m.
2. Para su información, las boletas de muestra estarán desplegadas en el salón de votaciones.
3. Cuando usted entre al salón de votación y antes de que se le permita votar, a usted se le requerirá presentar una identificación con foto y firma. Si usted no tiene la identificación adecuada, a usted se le permitirá firmar una declaración jurada y votar.
4. Si usted es un votante que vota por primera vez y que se ha registrado por correo y aún no ha provisto ya la identificación al supervisor de elecciones, usted deberá proveer una identificación con foto y firma. Si usted no tiene la identificación adecuada, a usted se le permite votar una boleta provisional.
5. Si usted necesita instrucciones sobre cómo usar el equipo de votación, pídale a un trabajador de las urnas que le ayude. Luego que a usted se le hayan dado instrucciones, el oficial que le ayuda se alejará, para que usted pueda echar su voto en secreto.
6. A usted se le requiere ocupar la caseta de votación solo(a), a menos que usted haya pedido ayuda al momento del registro o cuando usted firmó al llegar a las urnas.
7. Cuando usted termina de votar su boleta, asegúrese de oprimir el botón de VOTAR o ECHAR LA BOLETA para echar su voto.
8. Luego que usted eche su voto, a usted se le requerirá abandonar el salón de votación y no se le permitirá volver a entrar.
9. Si su elegibilidad es cuestionada o si usted es un votante que vota por primera vez que se registró por correo y no tiene una identificación con foto, a usted se le permitirá votar con una boleta provisional. Una vez usted haya marcado esta boleta de papel, colóquela en el sobre que se le proveyó y llene el *Voter's Certificate* (Certificado del Votante) al dorso del sobre. Su boleta será presentada al *County Canvassing Board* (Junta Examinadora del Condado) para una determinación en cuanto a contar su boleta o no.
10. Los trabajadores en las urnas poseen plena autoridad para mantener el orden en el área de votación.

DS-DE 74 TS



STATE OF FLORIDA

021375



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 104

Appendix E

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration is in question.
6. If his or her registration is in question, cast a provisional ballot.
7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.
8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
9. Vote free from coercion or intimidation by elections officers or any other person.
10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

You may have other voting rights under state and federal laws. If you believe your voting rights have been violated, please contact Florida Department of State, Division of Elections, 1-877-868-3737



GLENDA E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 105

Appendix F

LA CARTA DE LOS DERECHOS DEL ELECTOR

Todo elector inscrito en este estado tiene el derecho:

1. de votar y de que se cuente con precisión su voto.
2. de que se le permita votar si está en cola para votar cuando estén cerrando oficialmente las urnas en ese condado.
3. de pedir y recibir asistencia para votar.
4. de recibir hasta dos boletas de reemplazo si se equivoca antes de emitir su voto definitivamente.
5. si su inscripción está en duda, de que se le explique el motivo del problema.
6. si su inscripción está en duda, de votar con una boleta provisional.
7. de firmar una declaración jurada para probar su identidad si los funcionarios electorales tienen alguna duda acerca de la identidad del elector.
8. de tener por escrito instrucciones sobre el método de votación para usarlas al votar y, si las pide, de recibir instrucciones verbales por parte de los funcionarios electorales sobre dicho método.
9. de votar sin que lo coaccionen o intimiden los funcionarios electorales ni ninguna otra persona.
10. de votar empleando un sistema que, además de funcionar correctamente, haga posible emitir con precisión los votos.

Usted puede tener otros derechos de la votación bajo el estado y las leyes federales. Si usted cree que sus derechos de la votación se han violado, por favor avise La Sección de Estado de la Florida, la División de Elecciones, 1-877-868-3737.



GLEND A. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 106

Appendix G



STATE OF FLORIDA
DEPARTMENT OF STATE

JEB BUSH
Governor

GLEND A. HOOD
Secretary of State

November 10, 2005

Ms. Penelope Bonsall, Director
Office of Election Administration
Federal Elections Commission
999 E Street NW
Washington, D.C. 20463

RE: State of Florida request for waiver pursuant to Section 303(d) of the Help
America Vote Act of 2002

Dear Ms. Bonsall:

Section 303(a) of the Help America Vote Act of 2002 requires each state to implement a computerized statewide voter registration list by the January 1, 2004, date specified in Section 303(d)(1)(A) of the same statute. Section 303(d)(1)(B) provides for states to request an extension of the aforementioned deadline until January 1, 2006. The purpose of this correspondence is to certify that, for good cause as outlined below, the State of Florida is unable to meet the January 1, 2004, implementation date called for in Section 303(d)(1)(A), and respectfully requests an extension of the deadline as permitted by law until January 1, 2006.

Florida has a tradition of administering voter registration at the county level jurisdiction. Each of Florida's sixty-seven counties has a constitutionally elected officer known as the supervisor of elections who is responsible for maintaining voter registration lists in their respective county. Each supervisor of elections is also responsible for determining the type of information technology appropriate for supporting voter registration activities in their jurisdiction and the manner in which registration records are maintained. The steps required to: (1) assess county-administered voter registration systems; (2) develop methods for consolidating a variety of voter registration lists with individual nuances into a single computerized statewide system; and (3) provide for future coordination of county voter registration activities with the statewide list will require more time than provided by the January 1, 2004, implementation date.

The Florida Department of State is working diligently to implement a statewide voter registration system that will meet all the requirements of Title III. Some of the steps already taken by the State of Florida in order to develop and implement a statewide voter registration system include: hiring a project director; executing agreements with our state Departments of Highway Safety

021378



GLEND A E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN UPDATE / 107

• Ms. Penelope Bonnell, Director
November 10, 2005
Page 2

Motor Vehicles and Law Enforcement that outline data exchange procedures; and creating task groups comprised of county election officials and Department of State personnel in order to address technical and procedural issues relating to the creation of the centralized registration system. Given the steps already taken by the Florida Department of State and the other departments involved, and the scope of the work remaining to be done, I am confident that the State of Florida will be successful in having a statewide computerized voter registration system operational by the January 1, 2006, extended deadline requested herein.

Sincerely,

A handwritten signature in cursive script that reads "Glenda E. Hood".

Glenda E. Hood
Secretary of State

GEE/cek/pt

021379



FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State
DIVISION OF ELECTIONS

August 5, 2003

Mr. Brian Hancock
Office of Election Administration
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Dear Mr. Hancock:

Attached is the final version of the State of Florida HAVA Plan as required by the Help America Vote Act. The plan is now ready to be published in the Federal Register. Please include the following URL in the introduction to the state plan:
<http://election.dos.state.fl.us/hava/index.shtml>.

If you need further information, please let me know.

Sincerely,

Edward C. Kast
Director, Division of Elections

State of Florida HAVA Plan

As required by the
**HELP AMERICA VOTE ACT
OF 2002 (HAVA)**

021381

TABLE OF CONTENTS

Letter from Secretary Glenda E. Hood

Introduction	1
Element #1 – A. Section 301 Voting Systems	5
Element #1 – B. Section 302 Provisional Voting and Voting Information	17
Element #1 – C. Section 303 Voter Registration	24
Element #2 – Local Government Payments and Activities.....	31
Element #3 – Voter Education, Election Official Training, Poll Worker Training	35
Element #4 – Voting System Guidelines and Process	45
Element #5 – Election Fund	47
Element #6 – Proposed Budget	49
Element #7 – Maintenance of Effort	55
Element #8 – Performance Goals and Measures	56
Element #9 – Complaint Procedures	59
Element #10 – Title I Budget and Activities	61
Element #11 – State Management	65
Element #12 – Changes to State Plan	67
Element #13 – HAVA Planning Committee and Procedures	68
State of Florida HAVA State Plan Chart	71



**STATE OF FLORIDA
DEPARTMENT OF STATE**

JEB BUSH
Governor

GLEND A. HOOD
Secretary of State

July 21, 2003

Dear Election Assistance Commission:

As Chief Election Officer of the State, I am pleased to present the State of Florida HAVA Plan developed pursuant to the Help America Vote Act of 2002. This plan represents Florida's long-range plan for implementing the federal Act, which requires all states to significantly reform the way they conduct elections. As the plan indicates, Florida has already met many of the requirements of HAVA.

Florida's plan was developed through the Help America Vote Act Planning Committee, a group of dedicated individuals representing various constituency groups throughout the State. The plan sets forth the goals of achieving compliance with HAVA and for continuing to improve the elections process in the State of Florida. I commend the Committee for its hard work and diligence in producing the Plan.

As part of the Plan, the Committee was tasked with developing a budget based on the projected federal funds that the State would receive. The Committee considered only those funds projected to be received for the 2003 federal fiscal year. I, along with other election officials throughout the State, encourage Congress to continue the necessary funding to fully implement the requirements of HAVA. Both the State and counties have already spent significant funds to replace outdated voting systems. HAVA allows certain reimbursements for these expenditures and I fully support reimbursement to the State and counties where permissible under the Act. We will continue to examine the possibility of further reimbursement to the state as permitted by HAVA.

This plan recognizes that additional resources are required in order for our Supervisors of Elections to provide continuing voter education to the citizens of the State, to recruit qualified poll workers, and to provide the necessary training for those workers. As Chief Election Officer, I am committed to working closely with and supporting our Supervisors as we continue to ensure Florida voters have every confidence that their vote counts.

Florida will revise and update the plan as necessary to reflect the progress made in implementing HAVA and to chart the future goals and plans for elections. We look forward to continuing our election reform efforts to make this state the model for elections reform throughout the nation.

A handwritten signature in cursive script that reads "Glenda E. Hood".

Glenda E. Hood
Secretary of State

Introduction

Since the aftermath of the General Election of 2000, Florida has led the nation in its election reform efforts to ensure that every registered voter should have the opportunity to vote and to ensure that every vote counts.

The goal is perfection. Reaching that goal in an ever changing democracy and within a diverse population is an ongoing task that requires constant experimentation and learning. The people and the leadership of Florida have dedicated themselves to this course of action.

The struggle for improving our election process reveals itself in many ways. Citizens have increased their involvement by serving on local and State election task forces, researching new voting technologies, debating new standards for poll worker training, increasing voter education opportunities, and registering new voters. The people of Florida continue to make election reform a top priority.

The leadership of Florida has also acted decisively. Florida has enacted legislative and local reforms during the last two years that lead the nation. These reforms include cutting-edge voting system standards, millions of dollars for new voting technology, expanded voter education efforts, and thousands of newly trained poll workers. A statewide poll taken the day of the 2002 General Election found that Floridians gave high marks to the election reform changes including a 91% "excellent-good" rating for poll workers and an 88% confidence rating from voters that their votes will count. These results are not "perfect," but Florida is moving in a positive direction to make all facets of the election process better each time an election is held.

With the passage and signing of the Help America Vote Act of 2002 (HAVA) on October 29, 2002, election reform will spread throughout the nation. The new federal law asks States to develop election reform plans that will improve election administration in many areas. Florida embraces the new federal law and hopes that other States will use it as an opportunity to share new election reform ideas and practices with one another.

The people of Florida have learned many things about election reform. Yet, there are enduring principles which are reflected within many recommendations and changes of Florida's election reform efforts. These principles were developed by Florida's first task force in the aftermath of the 2000 General Election:

Enduring Principles of Elections

- Elections are first and foremost acts of millions of individual people: citizens who register and vote; candidates who offer themselves and their platforms for public

021334

judgment; poll workers who put in long days at precincts; and election officials who supervise the process. Honest, responsible, intelligent people will make most technology systems work well.

- Voting should be a simple, convenient and friendly process that encourages each citizen to express his or her choices.
- Voting systems should be designed to determine voter intent, to the extent that is humanly possible.
- Voting methods for statewide and national elections should meet uniform standards and national standards for fairness, reliability and equal protection of voting opportunity.
- Elections must meet two competing objectives: certainty (making every vote count accurately) and finality (ending elections so that governing can begin).
- While voting should be individual and private, procedures for counting and challenging votes should be open, transparent, and easily documented to ensure public confidence in the results.

Fulfilling the promises of these enduring principles will require continued vigilance and action. With this HAVA Plan, Florida continues its journey to mount an increasingly open and fair system of determining the will of the people.

The Help America Vote Act of 2002 requires all States to develop and implement a statewide plan. Listed below are the thirteen primary elements that must be addressed in the plan.

Help America Vote Act of 2002 (HAVA)
Public Law 107-252 – October 29, 2002

SEC. 254. STATE PLAN.

(a) IN GENERAL.—The State plan shall contain a description of each of the following:

Element 1.

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

Element 2.

How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—

- A) The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and
- B) The methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

Element 3.

How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

Element 4.

How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.

Element 5.

How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.

Element 6.

The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on —

- A) The costs of the activities required to be carried out to meet the requirements of Title III;
- B) The portion of the requirements payment which will be used to carry out activities to meet such requirements; and
- C) The portion of the requirements payment which will be used to carry out other activities.

Element 7.

How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

Element 8.

How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria,

and a description of which official is to be held responsible for ensuring that each performance goal is met.

Element 9.

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

Element 10.

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Element 11.

How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change —

- A) Is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;
- B) Is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and
- C) Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

Element 12.

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

Element 13.

A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

Element 1. Use Of Title III Requirements Payments:

A. Voting Systems

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

Introduction

Following the 2000 General Election, the people of Florida made a concerted effort to improve all facets of its election procedures, standards and voting systems. The first major changes were the recommendations advanced by the 2001 Governor's Select Task Force on Election Procedures, Standards and Technology followed by the passage of the Florida Election Reform Act of 2001. A central component of Florida's new election law mandated the replacement of punch card voting systems, lever machines, paper ballots and central count optical scanning systems with precinct tabulated Marksense voting systems or the Direct Recording Electronic voting systems. The new voting systems were put into service to reduce voter error, to improve tabulation accuracy, and to restore voter confidence in Florida's elections.

Florida has adopted voting system standards which meet and exceed standards established by the Federal Election Commission. Florida's voting system standards are reviewed every two years to determine whether they are adequate and effective in carrying out fair and impartial elections. The Bureau of Voting Systems Certification within the Department of State has statutory authority to adopt rules which establish minimum standards for voting systems purchased and used in Florida. Florida's 67 counties have authority to purchase and to maintain the appropriate certified voting system for their registered voters. During the last two years, the State of Florida has provided \$24 million to assist counties in purchasing new certified voting systems.

Only two types of voting systems are certified for use in Florida's 67 counties— Direct Recording Electronic (DRE or "touchscreen") voting systems and Marksense with precinct-based tabulation.

There are three manufacturers who have certified voting systems for use in Florida: Diebold; Elections Systems and Software, Inc. (ES&S); and Sequoia Voting Systems, Inc. (SP). Members of the HAVA Planning Committee noted that the certified Diebold voting system currently does not allow visually impaired voters to independently or to privately vote and this is addressed later under Section 301(a)(3)(A) and Section 301(a)(3)(B). The following chart details the types of voting systems used in Florida, the respective manufacturer, and the number of counties using the voting systems.

**DRE Voting Systems ("touchscreen")
And Number of Florida Counties in Use
For Precinct Voting**

DRE VOTING SYSTEM MANUFACTURER	COUNTIES (PRECINCT VOTING)
ES&S Voting System Release 3	6
ES&S Voting System Release 4.2	5
SP AVC Edge Voting System	4
TOTAL	15

**Marksense Voting Systems ("optical scanning")
And Number of Counties in Use
For Precinct and Absentee Voting**

MARKSENSE VOTING SYSTEM MANUFACTURER	COUNTIES (PRECINCT VOTING)	COUNTIES (ABSENTEE VOTING)
Diebold AccuVote ES 2001 B	30	30
ES&S Voting System Release 1.1	2	2
ES&S Voting System Release 2.1	1	1
ES&S Voting System Release 3	4	10
ES&S Voting System Release 3.2	1	1
ES&S Voting System Revised Release 3.1	3	3
ES&S Voting System Release 4.2	3	8
ES&S Optech IIIP Eagle	2	2
ES&S Optech IIIP/Optech IVC	5	5
SP Optech III-P Eagle	1	1
SP AVC Edge Voting System	0	4
TOTAL	52	67

The Help America Vote Act of 2002 (HAVA) establishes new minimum requirements for administering federal elections. These new voting system requirements are found in Title III of the federal law. The new requirements shape the performance and the administration of voting systems. Florida is in compliance with many of these new federal directives and these are addressed in the HAVA State Plan.

Section 301(a) of HAVA requires that Florida's voting systems meet the following requirements by January 1, 2006. Florida will be in compliance with all of these requirements by the federal deadline of January 1, 2006.

021389

Section 301(a) Voting System Standards and Requirements

Section 301(a)(1)(A)(i): Do Florida's voting systems permit the voter to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted?

Yes, and no further actions are required.

Section 101.5606(1), *Florida Statutes*, states that no voting system in Florida shall be approved by the Department of State unless it "permits and requires voting in secrecy."

Florida Voting System Standards (April 2002) state that "the voter must be able to review the candidate selections, which he or she has made. Prior to the act of casting a ballot, the voter must be able to change any selection previously made and confirm the new selection." (p. 21)

Florida Voting System Standards (April 2002) state that the voting function standards applicable to all Electronic Voter Interfaces must provide "after the initial instructions, which the system requires election officials to provide to each voter, the voter should be able to independently operate the voter interface through the final step of casting a ballot without assistance." (p. 20)

Section 301(a)(1)(A)(ii): Do Florida's voting systems provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct the error)?

Yes, and no further actions are required.

Florida Voting System Standards (April 2002) state that "the voter must be able to review the candidate selections, which he or she has made. Prior to the act of casting a ballot, the voter must be able to change any selection previously made and confirm the new selection." (p. 21)

Section 101.5606(12), *Florida Statutes*, requires that electronic voting systems should "permit each voter to change his or her vote for any candidate or upon any question appearing on the official ballot up to the time that the voter takes the final step to register his or her vote and to have the vote computed."

Section 101.5608(2)(b), *Florida Statutes*, requires that "Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected the ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide

instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in the envelope."

Section 101.5611(1), *Florida Statutes*, requires that the "supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth."

Section 301(a)(1)(A)(iii): If the voter selects votes for more than one candidate for a single office, do Florida's voting systems: (1) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (2) notify the voter before the ballot is cast and counted of the effect of casting the multiple votes for the office; and (3) provide the voter with the opportunity to correct the ballot before the ballot is cast?

Yes, and no further actions are required.

Section 101.5606(3), *Florida Statutes*, requires voting systems to immediately reject "a ballot where the number of votes for an office or measure exceeds the number which the voter is entitled to cast or where the tabulating equipment reads the ballot as a ballot with no votes cast."

Section 101.5606(4), *Florida Statutes*, requires that systems using paper ballots accept a rejected ballot if the voter chooses to cast the ballot after it has been rejected, but the ballot will record no vote for any office that has been overvoted or undervoted.

Section 101.5608(2)(b), *Florida Statutes*, provides that "Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected the ballot, a ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope."

Section 101.5611(1), *Florida Statutes*, requires that the "supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth."

Florida Voting System Standards (April 2002) state that "the system must prevent the voter from over voting any race." In addition, "there must be a clear, identifiable action, which the voter

takes to 'cast' the ballot. The system must make clear to the voter how to take this action, such that the voter has minimal risk of taking the action accidentally, but when the voter intends to cast the ballot, the action can be easily performed." (p. 21)

Florida Voting System Standards (April 2002) state that "Marksense systems shall reject blank ballots and ballots with overvoted races. Electronic voter interfaces shall prevent a voter from overvoting a race, and shall provide a means of indicating, to the voter, any races that may have been undervoted before the last step necessary to cast the ballot." (p. 22)

Section 301(a)(1)(B): Does Florida's mail-in absentee and mail-in ballot process meet the requirements of subparagraph (A)(iii) by: (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple ballots for an office; and (ii) providing the voter instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error)?

Partially meets, and further actions are required.

The Florida Legislature has amended Section 101.65, *Florida Statutes*, to require the instructions for absentee voters to include the following language:

Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one candidate, your vote in that race will not be counted.

Planned action before January 1, 2006:

In addition, the Division of Elections will update Rule 1S-2.032, *Florida Administrative Code (F.A.C.)*, (Uniform and General Election Ballot Design) which will make it clear to absentee voters how to correct their ballots and how to request a replacement ballot if the voter is unable to change or correct the original ballot.

The HAVA Planning Committee also suggested that absentee voters should be given clear notification that the deadline for submitting absentee ballots is by 7:00 p.m. of election night and that mailing the ballot may not ensure that it will arrive in time to be counted.

Section 301(a)(1)(C): Does Florida's absentee and mail-in ballot process preserve the privacy of the voter and the confidentiality of the ballot?

Yes, and no further actions are required.

Section 101.65, *Florida Statutes*, requires supervisors of elections to enclose with each absentee ballot a separate printed instruction form, a secrecy envelope, a Voter's Certificate and a mailing envelope. The instructions provide the following guidelines:

- Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.
- Place your ballot in the enclosed secrecy envelope.
- Insert your secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.

Section 101.68(2)(d), *Florida Statutes*, contains a detailed policy and procedure instructing the local canvassing boards in the manner of handling absentee ballots to ensure that the confidentiality of the ballot is maintained.

Section 301(a)(2)(A): Do Florida voting systems produce a record for audits?

Section 301(a)(2)(B): Do the voting systems produce a permanent paper record with a manual audit capacity?

Section 301(a)(2)(C): Is the paper record produced in subparagraph (A) available as an official record for any recount conducted with respect to any election in which the system is used?

Yes, and no further actions are required.

The HAVA Planning Committee determined through research conducted by staff, through testimony offered by Congressional staff, and through testimony given by staff from the Division of Elections that Florida complies with the HAVA audit requirement. Florida voting system standards require DRE machines to maintain a random sorted file of ballot images for every vote cast, and they also have to maintain detailed logs for each election from the time they are first programmed for an election until the results are copied to archival media. Certified voting systems in Florida are required to print out a paper tape of summary totals in each precinct. The paper record is produced to reconcile the consolidated totals for the county in the event of a recount.

Staff from the Division of Elections testified before the HAVA Planning Committee that Florida's State and local security measures make it highly unlikely any tampering could take place with the voting systems. In addition, staff also testified that Florida's certified voting

systems are tested in public forums for logic and accuracy before the election. There are also thorough procedural and security controls in place at the local level to safeguard against someone tampering with the voting systems. The Division of Elections' staff cited Rule 1S-2.015(5)(m)3.a., *F. A. C.*, relating to minimum election security procedures which requires the "printing of precinct results and results from individual tabulating devices" for every election. In addition, the Florida Legislature has authorized the Department of State to promulgate rules which would require supervisors to check those paper totals against electronic totals during machine recounts. The following statutes and rules lay the groundwork for Florida's ability to comply with the audit requirements of HAVA:

Section 101.015(5)(a), *Florida Statutes*, requires the Department of State to adopt rules which establish standards for voting systems, including audit capabilities.

Section 101.5606(11 & 13), *Florida Statutes*, requires the Department of State to approve only voting systems that are capable of automatically producing precinct totals in printed, marked, or punched form or a combination thereof. The voting systems must be capable of providing records from which the operating system of the voting system may be audited.

Florida Voting System Standards (April 2002) provide general functional requirements of voting systems which "shall include the capability to produce records, generated by the system components, or in some cases, by the system operators from which all operations may be audited. Except for the storage of vote images, which shall be maintained in a random sequence, the records shall be created and maintained in the sequence in which the operations were performed." (pp. 16-17)

Florida Voting System Standards (April 2002) require precinct count systems to provide a means for obtaining a printed report of the votes counted on each voting device, and to provide a means for extracting this information to a transportable memory device or data storage medium. (p. 23)

Florida Voting System Standards (April 2002) require the generation of reports by the system to be performed in a manner which does not erase or destroy any ballot image, parameter, tabulation or audit log data. The system shall provide a means for assuring the maintenance of data integrity and security for a period of at least 22 months after the closing of the polls. (p. 24)

Section 102.166(5)(d), *Florida Statutes*, requires the Department of State to adopt detailed rules prescribing additional manual recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

- Security of ballots during the recount process
- Time and place of recounts
- Public observance of recounts

- Objections to ballot determinations
- Record of recount proceedings
- Procedures relating to candidate and petitioner representatives

Section 301(a)(3)(A): Does Florida have certified voting systems for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters?

Section 301(a)(3)(B): Does Florida meet the requirement in subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place?

Partially meets, and further actions are required.

In 2001, the Secretary of State appointed a task force to conduct a comprehensive review of Florida's election laws and procedures. The task force recommended legislation to insure that Florida's voters with disabilities could fully exercise their right to a secret ballot, as guaranteed by Florida's Constitution. Many of the recommendations of the task force were passed by the Legislature and signed into law by Governor Bush in 2002 and are found in Chapter 2002-281, *Laws of Florida*. Several sections of the law, including sections setting forth specific standards that voting systems must meet, did not become effective immediately, however. They were made contingent on further appropriations by the Legislature, in expectation of the receipt of federal funding as now provided in HAVA.

Most of Florida's largest populated counties have voluntarily purchased voting systems that comply with the accessibility requirements of HAVA. However, Florida's uniform standards regarding voting system requirements (Section 101.56062, *Florida Statutes*), including one accessible machine per precinct, will be effective only when the Florida Legislature adopts a mechanism for funding this law. As a result, the current practice leaves it up to each county to determine how and where such accessible systems are deployed. This does not comply with the requirements of HAVA. Further, there is no statutory or regulatory requirement, beyond the constitutional mandate referred to above, that requires the other counties to comply with the accessibility standards.

HAVA requires that all voting systems be accessible to persons with disabilities, but does not specifically define what is required to accomplish this. HAVA's definition of what constitutes a voting system, however, found in Section 301(b), is comprehensive. Florida has already done the difficult and time consuming work of defining what makes a Florida voting system accessible for persons with disabilities and these standards are found in Chapter 2002-281, *Laws of Florida*. However, as noted above, many sections are not currently in effect. Some slight additional changes to Florida law will need to be made to include provisional ballots, which HAVA

requires to be accessible, within Florida's accessibility requirements.

Not only has Florida already enacted much of the required accessibility reforms required by HAVA, but the intent of the Legislature to comply fully with Federal requirements is clearly set out in statute. Section 101.56063, *Florida Statutes*, provides that:

It is the intent of the Legislature that this state be eligible for any funds that are available from the Federal Government to assist states in providing or improving accessibility of voting systems and polling places for persons having a disability. Accordingly, all state laws, rules, standards, and codes governing voting systems and polling place accessibility must be maintained to ensure the state's eligibility to receive federal funds. It is the intent of the Legislature that all state requirements meet or exceed the minimum federal requirements for voting systems and polling place accessibility.

What is left to do in order to comply with HAVA is to make all sections of Chapter 2002-281, *Laws of Florida*, effective. Without making these sections effective, and thus making Florida's voting systems accessible to people with disabilities, Florida will not comply with this requirement of HAVA and will not be able to certify its compliance in order to draw down all available HAVA funds. Making these sections effective requires legislative action. Failure by the Legislature to take action will result in Florida not being able to qualify for all available HAVA funds.

In addition to the above, Florida must take steps now in the certification and system procurement processes to insure that it is able to meet the HAVA requirements in time. HAVA requires that voting systems themselves, not just Florida law, must meet the accessibility requirements by January 1, 2006. The HAVA Planning Committee heard testimony from Division of Elections' staff who cautioned that Florida cannot compel any voting systems vendor to bring equipment to the State for certification. Staff testimony further noted that the lack of available certifiable equipment has been a significant problem in the past that continues to the present. With the proper incentives for vendors and tools for counties to require compliance with accessibility standards, Florida will be able to comply with HAVA requirements by January 1, 2006.

Accordingly, the HAVA Planning Committee recommends that the Division, beginning July 1, 2003, require that all new certified voting systems comply with the requirements of Section 101.56062, *Florida Statutes*. Further, any purchase of a voting system by a governmental entity after July 1, 2003 should be required to include a contract for future upgrades and sufficient equipment to meet the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*. Finally, all voting systems in use as of January 1, 2006, should be required to be both certified to meet, and be deployed in a configuration that meets, the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*.

For Florida to comply with HAVA and to be eligible for federal funds pursuant to HAVA, action by the Legislature should include the following specific recommendations of the HAVA Planning Committee:

1. Trigger the disability accessibility standards found in Chapter 2002-281 by either:
 - A. Enacting specific language in the budget that meets the requirements of Section 22, Chapter 2002-281 and appropriates funds to the Department of State for distribution to the counties for the specific purpose of funding Chapter 2002-281; or
 - B. Enacting a HAVA Implementation Bill that provides that Sections 4, 5, 6, 8, 9, 10, 11, 14, and 19 Chapter 2002-281, be effective no later than January 1, 2006, and that Section 12 of Chapter 2002-281 is effective on January 1, 2006.
2. Mandating that provisional ballots for voters with disabilities shall be provided to them by a system that meets the requirements of section 101.56062, *Florida Statutes*, by January 1, 2006.
3. Enact a HAVA Implementation Bill requiring:
 - A. All electronic and electromechanical voting systems certified by the State after July 1, 2003, must meet the requirements of Section 101.56062, *Florida Statutes*, (except subsection (1)(d), which is exempted in the statute);
 - B. Any purchase of a voting system by any county, municipality or by the State after July 1, 2003 must include a contract for future upgrades and sufficient equipment to meet the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*; and
 - C. All electronic and electromechanical voting systems in use on or after January 1, 2006 must be certified to meet and be deployed in a configuration which meets the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*.

The recommended budget proposed under Element 6 of this plan recommends using a portion of the requirements payments to become compliant with the disability voting system requirements.

Section 301(a)(3)(C): Will Florida purchase voting systems with funds made available under Title II on or after January 1, 2007, that meet the voting system standards for disability access (as outlined in this paragraph)?

Yes, and no further actions are required.

021397

Section 301(a)(4): Does Florida have certified voting systems that provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a)?

Yes, and no further actions are required.

In order to be certified for use in Florida, DRE voting systems must provide alternative language accessibility for all interfaces in order to meet the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa through 1a). Florida Voting System Standards (April 2002) require that all configurations must support all voter interface functions in at least the following languages: English, Spanish, and Haitian Creole. (p. 22)

Counties using Marksense voting systems must meet the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa through 1a) by printing ballots in the required languages.

Section 301(a)(5): Does Florida have certified voting systems that comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Elections Commission which are in effect on the date of the enactment of this Act?

Yes, and no further actions are required.

Florida Voting System Standards (April 2002) contain voting system accuracy standards which exceed the error standards established by the Federal Elections Commission. (pp. 35-36)

Section 301(a)(6): Has Florida adopted uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting systems used in the State?

Yes, and no further actions are required.

Section 102.166(5)(a), *Florida Statutes*, states that "a vote for a candidate or ballot measure be counted if there is a clear indication on the ballot that the voter has made a definite choice."

Section 102.166(5)(b), *Florida Statutes*, requires the Department of State to "adopt specific rules for each certified voting system prescribing what constitutes a 'clear indication on the ballot that the voter has made a definite choice.' The rules may not:

1. Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or
2. Contain a catch-all provision that fails to identify specific standards, such as 'any other mark or indication clearly indicating that the voter has made a definite choice.'"

Rule 1S-2.027, *F. A. C.*, entitled "Clear Indication of Voters Choice on a Ballot" provides specific standards for determining votes on optical scan ballots.

Element 1. Use of Title III Requirements Payments:
B. Provisional Voting and Voting Information

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

Section 302(a) Provisional Voting Requirements

The Help America Vote Act of 2002 (HAVA) requirements for provisional voting state that if an individual declares that he or she is a registered voter in the jurisdiction in which they are attempting to vote but their name does not appear on the official list of eligible voters, they are to be permitted to cast a provisional ballot.

Section 302(a)(1) Do Florida's election laws require election officials at the polling place to notify individuals that they may cast a provisional ballot?

Yes, and no further actions are required.

Section 101.031(2), *Florida Statutes*, states that the supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities. Included in the Voter's Bill of Rights is the right of each registered voter to cast a provisional ballot, if his or her registration is in question.

The Division of Elections' Polling Place Procedures Manual instructs pollworkers to read informational signs that appear in print on the walls of the polling place and to offer magnifying sheets for visually impaired voters.

In addition, modifications to Section 101.043(3), *Florida Statutes*, were included in Chapter 2003-415, *Laws of Florida*, which is effective January 1, 2004. This change provided that certain first-time voters would be allowed to vote a provisional ballot.

Section 302(a)(2) Do Florida's election laws state that any person attempting to vote whose name does not appear on the official list of eligible voters be permitted to cast a provisional ballot at the polling place upon the execution of a written affirmation by the individual that they are: (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election.

Yes, and no further actions are required.

Section 101.048(1), *Florida Statutes*, states that any voter claiming to be properly registered and eligible to vote, but whose eligibility cannot be determined, will be given a provisional ballot. A Provisional Ballot Voter's Certificate and Affirmation must be completed by the individual

casting a provisional ballot indicating that they are registered to vote and are a qualified voter of the county in which they are attempting to vote, and that they have not previously voted in the election.

Section 302(a)(3) Do Florida's election laws require a completed provisional ballot be given to an appropriate State or local election official to determine whether the individual is eligible under State law to vote?

Yes, and no further actions are required.

Section 101.048(1), *Florida Statutes*, states that all provisional ballots are placed in a secrecy envelope and then sealed in a provisional ballot envelope. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections.

Section 101.048(2)(a), *Florida Statutes*, states the county canvassing board shall examine each provisional ballot envelope to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election and that the person had not already cast a ballot in the election.

Section 302(a)(4) Is the provisional ballot counted if the appropriate State or local election official determines the individual is eligible under State law to vote?

Yes, and no further actions are required.

Section 101.048(2)(b)1., *Florida Statutes*, states that if it is determined that the person was registered and entitled to vote at the precinct where the person cast a ballot, the canvassing board will compare the signature on the provisional ballot envelope with the signature on the voter's registration record and, if it matches, will count the ballot.

Section 302(a)(5)(A) Are the individuals who cast a provisional ballot given written information that states that any individual who casts a provisional ballot will be able to ascertain whether the vote was counted and, if not, the reason that the vote was not counted?

Yes, and no further actions are required.

Chapter 2003-415, *Laws of Florida*, amends Section 101.048 to provide that each person casting a provisional ballot shall be given written instructions regarding the free access system. The instructions shall contain information on how to access the system along with the information the voter will need to provide in order to obtain information on his or her particular ballot.

Section 302(a)(5)(B) Has the appropriate State or local election official established a free access system to provide this information to individuals casting provisional ballots?

No, and further actions are required.

Planned action before January 1, 2004:

Chapter 2003-415, *Laws of Florida*, requires each supervisor of elections to establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why.

It is recommended that each county, as a minimum, provide to voters who cast provisional ballots written notification by mail informing them of whether their ballot was counted and, if not, why it was not counted. Supervisors of elections are also strongly encouraged to develop a toll-free number or access to this information via the Internet.

Each supervisor of elections will establish the free access system for their county by January 1, 2004.

Section 302(a)(5)(B) Has the appropriate State or local official established procedures to protect the security, confidentiality and integrity of the personal information collected and stored by the free access system, restricting access to the individual who cast the ballot?

Yes, and no further actions are required.

Chapter 2003-415, *Laws of Florida*, requires the free access system established by the supervisors of elections to restrict access to information regarding an individual ballot to the person who cast the ballot.

Section 302(b) Voting Information Requirements

HAVA requirements for voting information state that the appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

Section 302(b)(2)(A) Is a sample version of the ballot that will be used for that election posted?

Yes, and no further actions are required.

Section 101.20, *Florida Statutes*, states that two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. The sample ballots shall be in the form of the official ballot as it will appear at the polling place on election day. Sample ballots shall be open to inspection by all electors in any election.

Section 302(b)(2)(B) Is information regarding the date of the election and the hours during which polling places will be open posted on election day?

Yes, and no further actions are required.

Information such as the hours of operation of polling places and the date of the election are provided on instructional cards and sample ballots. Section 101.031, *Florida Statutes*, requires the Department of State, or in case of municipal elections the governing body of the municipality, to print, in large type on cards, instructions for the electors to use in voting. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary.

Currently, all cards that are posted in polling places include the hours the polls will be opened.

Section 101.20(1), *Florida Statutes*, states that two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. Sample ballots shall be open to inspection by all electors in any election, and a sufficient number of reduced-size ballots may be furnished to election officials so that one may be given to any elector desiring same.

Currently, all sample ballots posted in polling places include the date of the election.

Section 302(b)(2)(C) Are instructions on how to vote, including how to cast a vote and how to cast a provisional ballot posted on election day?

021403

No, and further actions are required.

Section 101.031, *Florida Statutes*, states the Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than two cards for each voting precinct for each election and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary.

In addition, Section 101.5611, *Florida Statutes*, states the supervisor of elections shall provide instruction at each polling place regarding the manner of voting with the system. The supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction.

Many counties have voting instructions in the voting booth and some provide verbal instruction. However, these instructions do not include how to cast a provisional ballot and Florida will have to revise its instructions to meet this requirement.

During the 2002 legislative session, Senate Bill 1350 was passed amending Section 97.026, *Florida Statutes*, and stated that all forms required to be used in chapters 97 through 106 shall be made available upon request, in alternative formats. However, this statute is not in effect during the development of this Plan.

Planned action before January 1, 2004:

The Department of State will revise the instructions to electors, which are posted at the polls on election day, to include information regarding how to cast a vote and how to cast a provisional ballot.

<p>Section 302(b)(2)(D) Are instructions for mail-in registrants and first-time voters under section 303(b) posted on election day?</p>
--

No, and further actions are required.

Planned action before January 1, 2004:

Under Section 101.031(1), *Florida Statutes*, the Department of State is required to print, in large type on cards, instructions for the electors to use in voting. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters.

The cards provided at each polling place, which are posted on election day for inspection by voters, will be modified by the Department of State to include instructions for mail-in registrants and first-time voters.

Section 302(b)(2)(E) Is general information on voting rights, including information on the right of an individual to cast a provisional ballot posted on election day?

Yes, and no further actions are required.

Section 101.031(2), *Florida Statutes*, requires the supervisor of elections in each county to have posted at each polling place the Voter's Bill of Rights and Responsibilities. The Voter's Bill of Rights states that each registered voter in this State has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration is in question.
6. If his or her registration is in question, cast a provisional ballot.
7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.
8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
9. Vote free from coercion or intimidation by elections officers or any other person.
10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

Section 302(b)(2)(E) Is contact information posted for voters who allege their rights have been violated?

No, and further actions are required.

Planned action before January 1, 2004:

Under Section 101.031(1), *Florida Statutes*, the Department of State is required to print, in large type on cards, instructions for the electors to use in voting. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters.

The cards provided at each polling place, which are posted on election day as information for electors, will be modified by the Department of State to include contact information for voters who believe their voting rights have been violated.

Section 302(b)(2)(F) Is information on laws regarding prohibitions on acts of fraud and misrepresentation posted?

Yes, and no further actions are required.

Section 101.5611(2), *Florida Statutes*, requires the supervisor of elections to have posted at each polling place a notice that reads: "A person who commits or attempts to commit any fraud in connection with voting, votes a fraudulent ballot, or votes more than once in an election can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years."

Section 302(c) Are individuals who vote in an election as a result of a court order or any other order extending the time established for closing the polls by a State law required to cast a provisional ballot? This provisional ballot must be separated and held apart from other provisional ballots cast by those not affected by the order.

Yes, and no further actions are required.

Chapter 2003-415, *Laws of Florida*, created s. 101.049, *Florida Statutes*, to require any person voting in an election after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and sealed in a provisional ballot envelope. All such provisional ballots will remain sealed and transmitted to the supervisor of elections separate and apart from all other ballots. The supervisor shall ensure that late-voted provisional ballots are not commingled with other ballots.

Section 302(d) The effective date for complying with the Provisional Voting and Voting Information requirements is on and after January 1, 2004.

For each requirement in which Florida does not currently comply, planned action for meeting the requirements will take place by January 1, 2004.

021406

Element 1. Use of Title III Requirements Payments:

C. Voter Registration

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

Introduction

The Help America Vote Act of 2002 (HAVA) establishes minimum requirements for a single, centralized, computerized statewide voter registration list and for mail registration as a part of establishing and maintaining such a list.

The effective and efficient administration of elections depends in a major way on the completeness and accuracy of voter registration lists that can be checked quickly and reliably by election workers. Section 303(a) of HAVA establishes minimum requirements for a "single, uniform, official, centralized, interactive, computerized, statewide voter registration list which shall be the single system for storing and managing the list of registered voters throughout the state for the conduct of all federal elections."

Because many voters register by mail instead of in person, the procedures used for mail registration are an important component of establishing and maintaining a complete and accurate statewide voter registration list. Section 303(b) of HAVA requires that a state's mail voter registration system be administered in a "uniform and nondiscriminatory manner" and establishes minimum requirements for such a system.

Until recently, Florida's voters have relied primarily on voter registration lists established and maintained by independent supervisors of elections in each of Florida's 67 counties.¹ These lists are governed by Florida law that specifies qualifications to register or vote, a registration oath, a uniform statewide voter registration application form, acceptance of applications by supervisors of elections, closing of registration books, late registration, declinations to register, special registration for electors requiring assistance, registration identification card, disposition of applications and procedures for cancellation, notices of changes of address, and operation of registration offices. See Sections 97.032 through 97.055, 97.0585 through 97.105, 98.015 through 98.095, and 98.101 through 98.491, *Florida Statutes*.

Additional requirements for establishing and maintaining voter registration lists were enacted in the Federal Voting Rights Act of 1965 and the National Voter Registration Act of 1993 ("Motor

¹ A permanent single voter registration system for each Florida county, used for all public elections in that county, improved on practices in early Florida history of requiring separate registrations for municipal elections and new registrations for each new election. See Section 97.105, *Florida Statutes*.

Voter Law"). Sections 97.057 through 97.0583, *Florida Statutes*, and other provisions of Florida law implemented those Federal laws in the State by providing for registration of voters by the Department of Highway Safety and Motor Vehicles, voter registration agencies,² and qualifying educational institutions.

In 1997, the Florida Legislature established a "central voter file" in the Division of Elections that contained voter registration information from all counties. Section 98.097, *Florida Statutes*.

Following the 2000 General Election, the Florida Legislature enacted the Florida Election Reform Act of 2001 that took additional steps to require complete and accurate voter registration lists in the counties and to establish a statewide voter registration database. Sections 98.0977 through 98.0979, *Florida Statutes*, authorized the Department of State to "...analyze, design, develop, operate, and maintain a statewide, on-line voter registration database and associated website, to be fully operational statewide by June 1, 2002. The database shall contain voter registration information from each of the 67 supervisors of elections in this state and shall be accessible through an Internet website. The system shall provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote for any of the following reasons, including, but not limited to:

- (a) The voter is deceased;
- (b) The voter has been convicted of a felony and has not had his or her civil rights restored; or
- (c) The voter has been adjudicated mentally incompetent and his or her mental capacity with respect to voting has not been restored.

The database shall also allow for duplicate voter registrations to be identified."

This statewide database was established in time for use in the 2002 General Elections. Requirements for pre-clearance by the U.S. Department of Justice (DOJ) and negotiations for settlement of a lawsuit by the NAACP delayed use of parts of the database concerning eligibility of voters identified as potentially ineligible because of a felony conviction or adjudication of mental incapacity. With the receipt of DOJ clearance and settlement of the lawsuit now accomplished, the Division of Elections will begin running matches when all issues related to the settlement agreement have been resolved.

² A "voter registration agency" is defined by Section 97.012(37), *Florida Statutes* as "...any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."

Section 303(a) Computerized Statewide Voter Registration List Requirements

Section 303(a)(1)(A)(i)-(vii) and 303(a)(2): Does Florida's existing statewide database meet requirements for implementing and maintaining a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State and includes information specified in HAVA?

No, and further actions are required.

Florida has made great strides in recent years in establishing a centralized, computerized statewide voter registration database but that database does not meet the requirements of HAVA Section 303(a)(1)(A) for a single statewide voter registration list "...defined, maintained, and administered at the State level...[with] a unique identifier [assigned] to each legally registered voter in the State..." which serves, under HAVA Section 303(a)(1)(A)(vii), as "...the official voter registration list for the conduct of all elections for Federal office in the State." HAVA Section 303(a)(1)(A)(i) further defines this requirement by specifying that "The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State." HAVA Section 303(a)(1)(A) also specifies that the chief State election official (in Florida the Secretary of State) shall implement and maintain the single statewide voter registration list.

Florida currently has 67 official voter registration lists, one established and maintained in each county, that are compiled into the statewide voter registration database required by the Florida Election Reform Act of 2001. The 67 county-based lists, not the statewide database, are the official voter registration lists for voters in Florida. The statewide database is intended primarily to assist supervisors of elections to determine if voters are ineligible to vote (deceased, convicted felons who have not had civil rights restored, or adjudicated as mentally incompetent). It also is intended to identify those voters who are listed more than once. It is not intended to serve as "...the single system for storing and managing the official list of registered voters throughout the State..." as required by HAVA. Information in the statewide database is made available to county supervisors of elections who are responsible for making final determinations of a voter's eligibility and for updating voter registration records.

HAVA's requirement for a single computerized statewide voter registration list cannot be fulfilled quickly. In addition to designing and implementing such a single system that is interactive and assigns unique identifiers to each voter, HAVA requires the system to have adequate technological security measures [HAVA Section 303(a)(3)], meet minimum standards of accuracy and currency [HAVA Section 303(a)(4)], provide for verification with other information such as driver's license numbers and Social Security numbers [HAVA Section 303(a)(5)], and meet other standards. Meeting these requirements and standards will take time, expertise and money.

The Legislature has appropriated \$1 million and nine staff positions to create a master design, including a business plan and budget, for a single statewide voter registration system by January 2004. This design would permit the 2004 Legislature to take action to authorize the implementation of a new single computerized statewide voter registration list in time for the 2006 elections. This timing assumes that the State of Florida will be granted a waiver under HAVA to have a single statewide voter registration system in place by January 1, 2006, instead of by the existing deadline of January 1, 2004. (The requirement for a waiver is discussed subsequently.)

Chapter 2003-415, *Laws of Florida*, authorizes the State to request the Federal Election Assistance Commission to grant a waiver from the January 1, 2004, HAVA deadline. The 2003 Appropriations bill authorizes the funding and staffing positions requested by the Division of Elections.

In the meantime, the Division of Elections has been meeting with representatives of the Florida State Association of Supervisors of Elections, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, the Board of Executive Clemency, the State Technology Office and health officials to begin to find ways to coordinate databases maintained by those agencies as part of the single centralized statewide voter registration list. Because HAVA Sections 303(a)(5)(A)(i)(I) and (II) require an applicant for voter registration to provide either a current and valid driver's license number or supply the last four digits of the applicant's Social Security number, HAVA Sections 303(a)(5)(B)(i)-(ii) require that the State enter into agreements to share such information with the Department of Highway Safety and Motor Vehicles and with the Social Security Administration.

HAVA's requirements are minimum requirements. Florida may establish technology and administrative requirements that are stricter than the Federal requirements as long as they are not inconsistent with HAVA's requirements and other laws, such as the Motor Voter Act, or in conflict with the privacy provisions of the Florida Constitution. See HAVA Section 304.

Section 303(d) Deadlines for Computerized Statewide Voter Registration List

Section 303(d)(1)(A): Can Florida meet HAVA's requirement to have operational a computerized statewide voter registration list, as defined by HAVA, by January 1, 2004?
--

No, and further actions are required.

The State practically cannot meet the January 1, 2004, deadline. Substantial professional and technical work must be done to design and establish a computerized statewide voter registration list that meets HAVA's standards. Although design of such a system can be ready by January 2004, implementation of the system will take a year or more beyond that date. Chapter 2003-415, *Laws of Florida*, authorizes the State to seek a waiver from the Federal Election Assistance Commission permitted under HAVA Section 303(d)(1)(B) from January 1, 2004, to January 1,

021410

2006, if the State "...will not meet the deadline...for good cause and includes in the certification the reasons for the failure to meet such deadline...."

Section 303(b) Requirements for Voters Who Register By Mail

Section 303(b)(1) through (4): Does Florida meet HAVA's identification requirements for a voter who registers by mail and has not previously voted in an election for Federal office in the State or registers by mail, has not previously voted in the jurisdiction and is in a State that does not have a computerized statewide voter list that meets HAVA's requirements?

Yes, and no further actions are required.

HAVA requires persons who register by mail and have not voted in an election for federal office to provide identification prior to voting. If the State is able to match the voter's driver's license number or Social Security number against an existing State record bearing the same number, name and date of birth, further identification by the voter is not required.

HAVA Sections 303(b)(2)(i) through (ii) require that a first-time voter who votes in person may be identified by a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. A voter who votes by mail may include with the ballot a copy of a current and valid photo identification or a copy of the other documents listed for the voter who appears in person. An exception is made in HAVA Section 303(b)(3) for mail registrants who provide a copy of required identification at the time of registering, mail registrants whose driver's license number or last 4 digits of the Social Security number are matched with an existing State record, and for those who vote under the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or under some other provision of Federal law (in which case the specific standards of those acts must be met).

Chapter 2003-415, *Laws of Florida*, amends the following sections of Florida law to conform to HAVA's mail registration and other voter registration requirements:

Section 97.052(3)(g), *Florida Statutes*, to require a statement with the uniform statewide voter registration form that informs the applicant that if the form is submitted by mail and the applicant is registering for the first time, the applicant will be required to provide identification prior to voting for the first time.

Section 97.053(5)(a), *Florida Statutes*, that permits the use of a valid Florida driver's license number or the identification number from a Florida identification card issued under Section 322.051, *Florida Statutes*, for purposes of voter registration.

Section 97.0535, *Florida Statutes*, that specifies at length the requirements for identification that a first-time voter can use and that complies with other HAVA requirements outlined previously.

021411

Section 101.043, *Florida Statutes*, (a transfer and renumbering of Section 98.471, *Florida Statutes*) to permit a voter to submit to a poll worker at the time of voting a current and valid picture identification with a signature.

Section 303(b)(4): Does Florida meet HAVA's requirement for language in the mail voter registration form under Section 6 of the National Voter Registration Act of 1993?

Yes, and no further actions are required.

HAVA requires that mail voter registration forms under Section 6 the National Voter Registration Act shall include the following:

“(i) The question ‘Are you a citizen of the United States of America?’ and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(ii) The question ‘Will you be 18 years of age on or before election day?’ and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

(iii) The statement ‘If you checked ‘no’ in response to either of these questions, do not complete this form.’

(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.”

Section 97.052(2)(b) and (r), *Florida Statutes*, requires that the uniform statewide voter registration form must be designed to elicit information from the applicant about the applicant's date of birth and whether the applicant is a citizen of the United States. The form itself, available on the Division of Elections' website at <http://election.dos.state.fl.us>, asks for date of birth and asks “Are you a U.S. citizen?” It does not use the specific language required by HAVA.

Chapter 2003-415, *Laws of Florida*, amends Section 97.052, *Florida Statutes*, by adding subsection (g) that requires language about the need for appropriate identification for first time mail applications. It does not require the specific HAVA language about age and citizenship.

The Division of Elections has reviewed this matter orally with Federal legislative and executive representatives and has concluded that the requirement applies only to Federal applications under Section 6 of the National Voter Registration Act. It believes that putting such language on State application forms will confuse voters and discourage first-time registrants. The age question, for instance, does not specify the exact election day to which it is referring and assumes that young

021412

voters may be applying to register for a specific election rather than pre-registering as 17 year-olds in order to vote in all elections after they reach the age of 18. The Division notes that the forms used by Florida already elicit the information required by asking for date of birth and citizenship. The forms do not discourage voters by telling them to stop with the application if they must answer "No" to either question. The Division is complying with the substance of HAVA if not with the exact form of the question.

021413

Element 2. Local Government Payments and Activities

How the State will distribute and monitor the distribution of the requirements payments to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

Introduction

The Florida Legislature has broad constitutional authority for appropriating federal and State funds annually through the appropriations bill which is eventually signed by the Governor into law. During the annual appropriations process, the Florida Legislature assesses the needs of the State and makes policy and budget decisions which impact every level of government including local government.

The funding of elections in Florida is primarily a local government responsibility since the constitutional authority for running elections rests with the local supervisor of elections. Funding authority for elections resides with the Boards of County Commissioners. Each of Florida's 67 Boards of County Commissioners receives a budget request from the supervisor of elections and then the Board makes policy and budget decisions based upon county priorities.

There has been one major exception to this election funding scenario. Following the controversial 2000 General Election, the Governor and the citizens of Florida asked the Legislature to enact broad election reforms which included providing State financial assistance to local governments. Over a two-year period, the Legislature provided over \$32 million in State funds to supplement local election budgets and to quicken the pace of election reform in Florida. Most of the State funds were appropriated to the Boards of County Commissioners using two different formulas for accomplishing distinct policy goals—to replace voting systems designated to be decertified and to enact comprehensive voter education programs in every county.

The funding formula used to upgrade voting systems had two important policy goals—to provide a minimum voting system standard of precinct-based optical scanning systems throughout Florida and to provide funding assistance to small counties with very small tax bases. The resulting formula achieved that policy goal and was as follows:

021414

- Small Counties (population 75,000 or below) received \$7,500/precinct
- Large Counties (population 75,001 and above) received \$3,750/precinct

The Legislature used a different formula to provide State funds for voter education and poll worker recruitment and training. This formula was based upon taking available State funds and distributing them on a per registered voter basis per county. The resulting formula was determined by taking approximately \$6,000,000 in available State funds and dividing it by the number of registered voters during the 2000 General Election and appropriating that money on a pro-rata basis to each county. The resulting appropriation provided \$5,949,375 to counties to fund comprehensive voter education programs and poll worker recruitment and training programs. The combined State and local efforts led to greater voter satisfaction during the 2002 General Election.

Pursuant to the appropriation, the Florida Legislature required each county supervisor of elections to submit a detailed description of the plans to be implemented and also a detailed report on the success of the voter education effort. These reports were sent to the Division of Elections and subsequently compiled by the Division into a report sent to the Governor and Florida Legislature.

While the State funds were widely valued, the counties still provided a majority of funding for election reform efforts. According to the 2002 Governor's Select Task Force on Election Procedures, Standards and Technology, a survey of 33 county governments revealed they spent nearly \$110 million toward new voting systems before the 2002 primary and general elections.

If the Florida Legislature determines that it will provide funding for units of local governments and other entities, then how will the requirements payments be distributed and monitored, including—

- A. A description of the criteria used to determine the eligibility of such units and entities for receiving payment.**
- B. A description of the methods to be used by Florida to monitor the performance of the units of entities to whom the payments is distributed, consistent with the performance goals and measures adopted under paragraph (8).**

The Help America Vote Act of 2002 (HAVA) Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. During HAVA Planning Committee discussions, members proposed several recommendations that would provide funding for units of local government. The recommended payments to local government are listed below:

021415

Replacement and Reimbursement For Punch Card And Lever Machines

The HAVA Planning Committee recommends that the estimated \$11.74 million received pursuant to Section 102 of HAVA be distributed to the State and to the counties on a pro-rated basis for their respective contributions to replace punch cards and lever machines during the 2001-2002 and 2002-2003 fiscal years.³

Accessible Voting Systems for Voters With Disabilities

The HAVA Planning Committee recommends that HAVA funds should be distributed to counties during the 2004-2005 fiscal year to help them meet Section 301 Title III accessibility requirements by the January 1, 2006 deadline. The estimated amount to comply with this requirement is \$11.6 million and the funds would be distributed according to the number of machines accessible for persons with disabilities needed for each county to have one per polling place. The Division of Elections would have the responsibility for determining eligibility of counties receiving HAVA funds.

Secondly, if HAVA funds are available, the HAVA Planning Committee recommends that HAVA funds be distributed as a reimbursement on a pro-rated basis to local governments that purchased accessible voting systems and components during the 2001 and 2002 fiscal years.

Statewide Voter Education Program

For the 2003-2004, 2004-2005, and 2005-2006 fiscal years, the HAVA Planning Committee recommends that local governments receive a total of \$9 million dollars (\$3 million each fiscal year) for comprehensive voter education efforts. HAVA funds for voter education should be distributed using a similar formula as used in 2001. The Division of Elections should be responsible for determining eligibility of any county for the receipt of State or federal funds used in HAVA election reform activities.

The Division of Elections should be responsible for monitoring the use of funds in accordance with established State procedures. Prior to receiving any funds from the Division, each of Florida's 67 supervisors of elections must enter into a contractual agreement with the State. The contract must affirm what the funds are to be used for and it must provide proof that the counties have matching dollars, if required.

The Division of Elections will monitor the performance of the contract agreements entered into between the State and each county. Each county must meet the contractual requirements before payment is approved.

Standard auditing procedures for monitoring the use of federal funds will be used for the receipt and the distribution of HAVA funds. These standard procedures may include random program

³ The 2003 General Appropriations Act passed by the Legislature required the Department of State to transfer all amounts eligible for reimbursement under Section 102 of HAVA to the State's Working Capital Fund.

audits by the Department of State's Inspector General as well as an annual audit by the Florida Auditor General's office to ensure funds are being expended for the authorized purposes.

To monitor the use of the voter education funds at the local level, the HAVA Planning Committee recommends that the Florida Legislature require each county to establish a fund to be used to deposit funds received from the federal or State governments for election reform activities. If a county match is required, it will also be deposited into this account. The funds will not be commingled with other funds which may be appropriated to the supervisor of elections by the county. Funds in this account will be used for the activities for which the funds were received and, unless otherwise specified in the appropriation, there is no requirement for the funds to be used during a certain time.

Also during the 2003-2004, 2004-2005, and 2005-2006 fiscal years, the Division of Elections recommends that the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement receive HAVA funding to assist in the development of the new statewide voter registration system. The Division of Elections will enter into a contractual agreement with these other state-level departments and monitor the contracts in accordance with standard auditing procedures for monitoring the use of federal funds.

021417

Element 3. Voter Education, Election Official Education & Training, Poll Worker Training

How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

Introduction

A wide array of national and State task force reports have highlighted the need for a more informed electorate. To achieve this goal, voters, election officials, and poll workers must receive better information and training. Florida assigns the primary responsibility for these daunting tasks to the Department of State and the county supervisors of elections. Following election 2000, the Legislature has more clearly delineated the role of each in improving the education of voters, election officials, and poll workers.

The Florida Election Reform Act of 2001 set deadlines, included a wide array of topics to be addressed by State and county election officials, granted rule making authority to the Department of State, and established a procedure for measuring the effectiveness of the programs and making recommendations to the Governor and the State Legislature. Various acts passed during the 2002 legislative session broaden the scope of voter education responsibilities, more definitively spell out voter rights, and ensure that Florida's electoral system conforms to the Americans with Disabilities Act of 1990. Each of these changes has been communicated to election officials at all levels and to the public at-large.

The Election Reform Act of 2001 required all 67 county supervisors of elections to file voter education plans with the Division of Elections in the Department of State in order to qualify for State funds. (The Act appropriated nearly \$6 million for voter education in fiscal year 2001-2002 in addition to \$24 million for purchase of new voting equipment, fiscal years 2001-2003.) The Department of State, as directed by the Legislature, established minimum standards for nonpartisan voter education to be met by each county.

Voter education plans filed with the Division of Elections in the Secretary of State's office are filled with creative approaches. These outreach mechanisms are designed by the elections supervisors:

- (1) to better inform their county's residents about registration and voting; and,
- (2) to reduce the levels of voter error and confusion that existed during the 2000 election cycle.

The approaches used by the 67 individual counties vary considerably, reflecting differences in their demographic and socioeconomic composition (e.g., land area, rural-urban location, age, race/ethnicity, education), county funding levels, and media availability.

Significant changes to Florida's election laws and the advent of new voting equipment have made poll worker education a high priority—as recognized in the Florida Election Reform Act of 2001. Florida's counties have restructured their poll worker training programs. State law now requires supervisors of elections to cast their poll worker recruitment nets wider, as the number of poll workers needed escalates in a fast-growing state.

Section 254(a)(3). How will the State of Florida provide for programs for voter education which will assist the State in meeting the requirements of Title III?

Florida has adopted extensive voter education requirements and funded county voter education programs (\$6 million in 2001). The Help America Vote Act of 2002 (HAVA) Planning Committee recommends an additional \$3 million in each of the next three fiscal years for local voter education programs.

Joint Responsibility of Department of State and County Supervisors of Elections

Section 98.255(1), *Florida Statutes*, directed the Department of State to “adopt rules prescribing minimum standards for nonpartisan voter education” by March 1, 2002. The standards were to address (but were not limited to):

- (1) voter education;
- (2) balloting procedures for absentee and polling place;
- (3) voter rights and responsibilities;
- (4) distribution of sample ballots; and,
- (5) public service announcements.

In developing the rules, the Department was instructed to “review current voter education programs within each county of the state.” The Department of State adopted Rule 1S-2.033, *F. A. C.*, Standards for Nonpartisan Voter Education on May 30, 2002.

Section 98.255(2), *Florida Statutes*, requires each supervisor of elections to “implement the minimum voter education standards” and “to conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.”

Minimum Nonpartisan Voter Education Standards

The Department of State's “Standards for Nonpartisan Voter Education,” Rule 1S-2.033, *F. A. C.*, requires the following voter education practices:

Comprehensive Voter Guide: Contents

Department of State Rule 1S-2.033, *F. A. C.*, Standards for Nonpartisan Voter Education, requires supervisors of elections to create a Voter Guide which shall include: how to register to

vote; where voter registration applications are available; how to register by mail; dates for upcoming elections; registration deadlines for the next primary and general election; how voters should update their voter registration information such as changes in name, address or party affiliation; information on how to obtain, vote and return an absentee ballot; voters' rights and responsibilities pursuant to Section 101.031, *Florida Statutes*; polling information including what times the polls are open, what to bring to the polls, list of acceptable IDs, what to expect at the polls; instructions on the county's particular voting system; supervisor contact information; and any other information the supervisor deems important.

Voter Guide: Extensive Distribution

Department of State Rule 1S-2.033(1)(b), *F.A.C.*, requires supervisors of elections to "provide the Voter Guide at as many places as possible within the county including: agencies designated as voter registration sites pursuant to the National Voter Registration Act; the supervisor's office; public libraries; community centers; post offices; centers for independent living; county governmental offices; and at all registration drives conducted by the supervisor of elections."

Voter Guide, Sample Ballot, & Website Consistency Required

Department of State Rule 1S-2.033(2), *F.A.C.*, states that: "If a supervisor has a website, it must take into account all of the information that is required to be included in the Voter Guide. In addition, when a sample ballot is available, the website must provide either information on how to obtain a sample ballot or a direct hyperlink to a sample ballot."

Targeted Voter Education: High School Students

Florida's Department of State Rule 1S-2.033(3), *F.A.C.*, instructs the supervisors of elections to work with county school boards to develop voter education and registration programs for high school students. Specifically, the rule requires that "At least once a year in each public high school in the county, the supervisor shall conduct a high school voter registration/education program. The program must be developed in cooperation with the local school board and be designed for maximum effectiveness in reaching and educating high school students."

Targeted Voter Education: College Students

Florida's Department of State Rule 1S-2.033(4), *F.A.C.*, dictates that "At least once a year on each college campus in the county, the supervisor shall provide a college registration/education program. This program must be designed for maximum effectiveness in reaching and educating college students."

Targeted Voter Education: Senior Citizens and Minority Groups

Department of State Rule 1S-2.033(7), *F.A.C.*, requires supervisors of elections to "conduct demonstrations of the county's voting equipment in community centers, senior citizen residences, and to various community groups, including minority groups." Rule 1S-2.033(8), *F.A.C.*, specifically instructs the supervisors to use minority media outlets to provide more information to voters.

Targeted Voter Education: Individuals and Groups Sponsoring Voter Registration Drives

Department of State Rule 1S-2.033(6), *F.A.C.*, specifically instructs supervisors of elections to “provide, upon reasonable request and notice, voter registration workshops for individuals and organizations sponsoring voter registration drives.” Section 98.015(9), *Florida Statutes*, states that “each supervisor must make training in the proper implementation of voter registration procedures available to any individual, group, center for independent living, or public library in the supervisor’s county.”

Posting of Educational Materials on Voter Rights and Responsibilities

Department of State Rule 1S-2.033(5), *F.A.C.*, requires supervisors of elections to “post the listing of the voters’ rights and responsibilities pursuant to Section 101.031, *Florida Statutes*, at the supervisor’s office.” Section 101.031(2), *Florida Statutes*, spells out the specific format of the Voter’s Bill of Rights and Responsibilities to be posted by the supervisor of elections at each polling place. The Department of State, or in case of municipal elections the governing body of the municipality, is required “to print, in large type on cards, instructions for electors to use in voting,” including the list of rights and responsibilities and other information about how to vote deemed necessary by the Department of State—Section 101.031(1), *Florida Statutes*. At least two cards shall be provided to each precinct.

Educating Voters About Polling Place and Precinct Changes, Revised Voter Identification Cards

Department of State Rule 1S-2.033, *F.A.C.*, mandates that supervisors of elections “shall provide notice of changes of polling places and precincts to all affected registered voters.” “This notice shall include publication in a newspaper of general circulation as well as posting the changes in at least ten conspicuous places in the county. If the supervisor has a website, the supervisor shall post the changes on the website. The supervisors shall also widely distribute a notice that if a voter does not receive a revised voter identification card within 20 days of the election the voter should contact a specific number at the supervisor’s office to obtain polling place information.”

Voter Education Through the Media

Department of State Rule 1S-2.033(8), *F.A.C.*, requires supervisors of elections to interface with the media to better inform the electorate. Supervisors are to “participate in available radio, television and print programs and interviews, in both general and minority media outlets, to provide voting information.”

Voter Education Through the Internet

The Division of Elections’ website (<http://election.dos.state.fl.us/>) offers extensive information regarding registration, elections (dates, district maps, results, Division reports, forms, publications, voter turnout, supervisor of elections’ contact information), voter fraud, voting systems, laws/opinions/rules, candidates and committees, the initiative petition process, and other helpful government links.

Voter Education About Fraud

Section 97.012(12), *Florida Statutes*, requires the Secretary of State to "...provide election fraud education to the public."

Procedures for Constant Analysis of Voter Education Effectiveness

Section 98.255(3)(a), *Florida Statutes*, requires supervisors of elections to file a report by December 15 of each general election year with the Department of State. This report is "a detailed description of the voter education programs implemented and any other information that may be useful in evaluating the effectiveness of voter education efforts."

Section 98.255(3)(b), *Florida Statutes*, requires the Department of State to review the information submitted by the supervisors and "prepare a public report on the effectiveness of voter education programs" and to "submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election."

Further, Section 98.255(3)(c), *Florida Statutes*, instructs the Department of State to use "the findings in the report as a basis for adopting modified [voter education] rules that incorporate successful voter education programs and techniques as necessary."

This procedure was first used in the 2002 election cycle. The Division of Elections requested each supervisor of elections to list in detail the voter education programs conducted during the 2002 election cycle and the approximate cost of each program. The supervisors were asked to rank the effectiveness of each program on a scale of 1 to 5, with 5 being the highest possible rank. On January 31, 2003, the Florida Department of State, Division of Elections, submitted its "Report on Voter Education Programs During the 2002 Election Cycle Pursuant to Section 98.255(3), *Florida Statutes*." The report concluded that "most supervisors ranked the county voter education programs as 4 or 5 in effectiveness in reaching the target community." (There were ten broad categories of voter education programs: sample ballots; elementary/middle school/high school/university and community college outreach; websites; miscellaneous promotional materials; public appearances/television and movie theatre advertisements; banners and billboards, radio and public transport advertisements; newspapers and mailers; voting system demonstrations; outreach to minority, disabled and senior communities; and voter registration drives.) The Department of State made three recommendations in its post-election 2002 report:

- (1) The Legislature should provide funding, contingent upon appropriations from Congress through the Help America Vote Act, to the counties for voter education efforts;
- (2) The Legislature should require sample ballots to be mailed to households or voters prior to each Primary and General Election.
- (3) The Division of Elections should provide a list of cost-effective voter education programs used by counties so that all counties can benefit from these ideas.

(The 2002 Governor's Select Task Force on Election Procedures, Standards, and Technology report of December 30, 2002 also recommended improving "voter education by requiring all supervisors of elections to mail generic sample ballots to each household with registered voters.")

Section 101.595, *Florida Statutes*, also requires supervisors of elections to submit a report to the Department of State no later than December 15 of each general election year detailing "[t]he total number of overvotes and undervotes in the first race appearing on the ballot pursuant to Section 101.151(2), along with the likely reasons for such overvotes and undervotes and other information as may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion." The Department of State must prepare a report analyzing that information and submit it to the Governor, the President of the Senate, and the Speaker of the House by January 31 of the year following a general election. The report is to include recommendations for correcting any problems with ballot design or instructions to voters.

This procedure was first used in the 2002 election cycle. "Analysis and Report of Overvotes and Undervotes for the 2002 General Election Pursuant to Section 101.595, Florida Statutes" found a substantial reduction in the level of overvotes and undervotes in 2002 (compared to 2000) and concluded that new technology and the counties' voter education efforts were major factors contributing to the reduction in voter error. The report's recommendations were:

- (1) The Division of Elections should continue to monitor the overvotes and undervotes from each general election.
- (2) The Florida Legislature should provide funding, contingent upon appropriations from Congress through the Help America Vote Act, to the counties for voter education efforts.
- (3) The Division of Elections should review the recommendations for ballot instructions for incorporation into the uniform ballot rule.
- (4) All voting system vendors should continue to improve the design of their voting systems in order to better meet the needs of Florida's voters.

Florida's system for constant evaluation of the effectiveness of voter education by both the county supervisors of elections and the Department of State is in place and operating.

What needs to be done? Educational materials must be updated to provide absentee voters with better instructions on how to mark a ballot and how to correct their ballots and how to request a replacement ballot if the voter is unable to change the original ballot. (This is necessary to meet Section 301(a)(1)(B) HAVA requirements.) This will be done once the amendment to Section 101.65, *Florida Statutes*, becomes law and Department of State rule changes have been adopted. Both are expected to be in effect by January 1, 2004—before the HAVA deadline of January 2006.

Educational materials must be updated giving a voter written notice at the time of casting a provisional ballot that he or she can find out if the ballot was counted, or if not, why, through a free access system, restricted to the individual voter—Section 302(a)(5)(A)&(B) HAVA requirements.

Educational materials available to voters at the polling place must be updated to conform to HAVA voting information requirements—Section 302(b)(2)(A through F) to post: sample ballots at polls; the election date; identification instructions for mail registrants who are first time voters; and information on who to contact if general voting rights under State and federal laws are violated.

Educational materials should be updated as needed to include information on law and rule changes. The procedures for informing Florida voters, election officials, and poll workers of these changes are in place in statutes and rule making authority.

Section 254(a)(3). How will the State of Florida provide for programs for *election official education and training* which will assist the State in meeting the requirements of Title III?

The State has assigned responsibility for education and training of election officials to the Secretary of State. The Division of Elections prepares and distributes educational materials for, and conducts the training of, supervisors of elections and their staffs.

The Secretary of State is the State's chief election officer whose responsibilities are spelled out in Section 97.012, *Florida Statutes*. Among those responsibilities are explicit requirements to: "provide technical assistance to the supervisors of elections on voter education and election personnel training services;" "provide technical assistance to the supervisors of elections on voting systems;" "provide training to all affected state agencies on the necessary procedures for proper implementation of [Chapter 97 of the Florida Statutes];" and "coordinate with the United States Department of Defense so that armed forces recruitment offices administer voter education in a manner consistent with the procedures set forth in [Florida election] code for voter registration agencies."

The Division of Elections conducts voter education and election personnel training, issues advisory opinions that provide statewide coordination and direction for interpreting and enforcing election law provisions, provides technical advice on voting systems and equipment and State and federal election laws, certifies voting equipment, and provides written election information to candidates (Office of Policy Analysis and Government Responsibility, *Justification Review*, Report No. 02-55, October 2002).

The Division of Elections oversees and approves training courses for continuing education for supervisors of elections. It coordinates, on an annual basis, two statewide workshops for the

supervisors of elections by reviewing and providing updates on the election laws to ensure uniformity statewide in the interpretation of election laws. These are generally held in conjunction with the Florida State Association of Supervisors of Elections' Conferences held in January and June. The division oversees certification for supervisors of elections through which supervisors obtain credits to maintain job proficiency. The Division may also conduct regional workshops for supervisors and staff, universities, and community colleges, and State agencies. When Select Task Forces are created by the Governor, Secretary of State, or other State officials, the Division provides administrative and technical assistance. (Florida Department of State, Division of Elections, 2001 Annual Report).

All Division of Elections' forms, rules, handbooks, opinions, etc. are available on the Internet via the Division's website—an award-winning site (<http://election.dos.state.fl.us/>). Section 97.026, *Florida Statutes*, states "It is the intent of the Legislature that all forms required to be used in chapters 97-106 [the election code], shall be made available upon request, in alternative formats" including the Internet (with the exception of absentee ballots).

The HAVA Planning Committee recommends that the Division of Elections also conduct training courses for the continuing education of city election officials in conjunction with meetings of the Florida Association of City Clerks.

Section 254(a)(3). How will the State of Florida provide for programs for poll worker training which will assist the State in meeting the requirements of Title III?

Florida has adopted extensive poll worker recruitment and training requirements and funded county poll worker training (as part of the \$6 million voter education appropriation in 2001). The State has: adopted minimum-hours-of-training requirements; spelled out training content requirements; prepared a uniform polling place procedures manual; and mandated a statewide and uniform program for training poll workers on issues of etiquette and sensitivity with respect to disabled voters.

State law permits inspectors, clerks, and deputy sheriffs attending poll worker training to receive compensation and travel expenses—Section 102.021(2), *Florida Statutes*.

Joint Responsibility of Department of State and County Supervisors of Elections

Section 102.014, *Florida Statutes*, assigns responsibility for poll worker training to county supervisors of elections and the Department of State.

Section 102.014(1), *Florida Statutes*, requires supervisors of elections to conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election "for the purpose of instructing such persons in their duties and responsibilities as election officials." Training is mandatory to work at the polls.

Section 102.014(5), *Florida Statutes*, directs the Department of State to “create a uniform polling place procedures manual and adopt the manual by rule” and to revise it “as necessary to address new procedures in law or problems encountered by voters and poll workers at the precincts.” Rule 1S-2.034, *F.A.C.*, Polling Place Procedures Manual (Form DS-DE 11; 4/02), was adopted on July 4, 2002. The manual, to be available in either hard copy or electronic form at every precinct on Election Day, must be “indexed by subject, and written in plain, clear, unambiguous language.”

Under Section 102.014(7), *Florida Statutes*, the Department is assigned the responsibility for developing “a mandatory, statewide, and uniform program for training poll workers on issues of etiquette and sensitivity with respect to voters having a disability.” But county supervisors of elections are responsible for conducting such training. They are required to “contract with a recognized disability-related organization, such as a center for independent living, family network on disabilities, deaf service bureau, or other such organization, to develop and assist with training the trainers in disability sensitivity programs.”

Poll Worker Training Content

The content of poll worker training is detailed in State statutes.

Clerks must demonstrate “a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills”—Section 102.014(1), *Florida Statutes*.

The Uniform Polling Place Procedures Manual must include: regulations governing solicitation by individuals and groups at the polling place; procedures to be followed with respect to voters whose names are not on the precinct register; proper operation of the voting system; ballot handling procedures; procedures governing spoiled ballots; procedures to be followed after the polls close; rights of voters at the polls; procedures for handling emergency situations; procedures for dealing with irate voters; the handling and processing of provisional ballots; and security procedures—Section 102.014(5)(a-k), *Florida Statutes*. The manual “shall provide specific examples of common problems encountered at the polls on election day, and detail specific procedures for resolving those problems.”

Poll worker training on issues of etiquette and sensitivity for disabled voters “must include actual demonstrations of obstacles confronted by disabled persons during the voting process, including obtaining access to the polling place, traveling through the polling area, and using the voting system”—Section 102.014(7), *Florida Statutes*.

Poll Worker Minimum Hours of Training

Section 102.014(4), *Florida Statutes*, specifies that clerks must have had a minimum of three hours of training prior to each election to be eligible to work at the polls. For inspectors, there is

a minimum of two hours of training. Section 102.014(7), *Florida Statutes*, requires one hour involving training related to etiquette and sensitivity with regard to voters with disabilities.

Poll Worker Recruitment

Supervisors of elections are required to “work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks”—Section 102.014(6), *Florida Statutes*.

What needs to be done? There is no established procedure for evaluating the effectiveness of poll worker training or recruitment as there is for voter education. The 2002 Governor’s Select Task Force on Election Procedures, Standards, and Technology report of December 30, 2002, recommended “establishing minimum standards for poll worker performance” and “improving poll worker recruitment and training by launching a statewide “Be a Poll Worker” campaign.

The HAVA Planning Committee recommends that the Division of Elections establish a procedure to evaluate the effectiveness of poll worker recruitment and training in all 67 counties.

Element 4. Voting System Guidelines and Process

How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

Introduction

There are several governmental bodies and agencies that participate in the adoption of voting systems in Florida. The Florida Legislature has great authority to set voting system requirements and does so in Chapter 101, *Florida Statutes*. The legislature also delegates rule making and certification authority to the Bureau of Voting Systems Certification in the Division of Elections under the Secretary of State.

After voting systems are independently tested and certified for use in Florida, Section 101.5604, *Florida Statutes*, provides that the Board of County Commissioners "at any regular or special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county."

To keep Florida's voting systems standards up-to-date, Section 101.015, *Florida Statutes*, requires the Department of State to review "the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."

Section 254(a)(4) How will the State of Florida adopt voting system requirements and processes which are consistent with the requirements of Section 301?
--

Florida's laws and regulations for adopting voting systems that are consistent with the requirements of Section 301 are clearly outlined in *Florida Statutes* and the Florida Voting Systems Standards.

Section 101.015, *Florida Statutes*, authorizes the Department of State to adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems.

Section 101.017, *Florida Statutes*, creates the Bureau of Voting Systems Certification which provides technical support to the supervisors of elections and is responsible for voting system standards and certification.

Section 101.5605, *Florida Statutes*, authorizes the Department of State to examine and approve voting systems through a public process to ensure that the voting systems meet the standards

outlined in Section 101.5606, *Florida Statutes*, and similar standards outlined in the Help America Vote Act of 2002 (HAVA) requirements outlined in Section 301 of Title III.

Section 101.5604, *Florida Statutes*, authorizes the Board of County Commissioners to adopt voting systems.

Sections 101.293-101.295, *Florida Statutes*, outline the public bidding process that counties should follow in purchasing voting systems.

Section 101.56062, *Florida Statutes*, exceeds the accessibility standards of HAVA Section 301 "Accessibility for Individuals With Disabilities." The HAVA Planning Committee has recommended that the Florida Legislature take advantage of federal funding and bring Florida into compliance and make Section 101.56062, *Florida Statutes*, effective by January 1, 2006 or one year after general appropriations are made, whichever is earlier.

Section 101.015, *Florida Statutes*, requires the Department of State to review "the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."

Element 5. Florida's Help America Vote Act of 2002 (HAVA) Election Fund

How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.

To clarify, Section 254(b) states that a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

- (A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.
- (B) The requirements payment made to the State under this part.
- (C) Such other amounts as may be appropriated under law.
- (D) Interest earned on deposits of the fund.

Section 254(a)(5) How will the State of Florida establish a fund for the purpose of administering the State's activities under this part?

All HAVA funds will be maintained in a trust fund that has already been established by the Department of State. Within this trust fund, monies received for HAVA Sections 101, 102 and Title II will be set up into four accounts: 101-Election Administration, 102-Replace Punch Card and Lever Voting Systems, 251-Requirements Payment, and 261-Access for Individuals with Disabilities.

Section 254(a)(5) How will the State of Florida manage this fund?

Any HAVA funds received by the State will be used exclusively for activities authorized by HAVA. The Division of Elections is responsible for tracking and monitoring the use of funds in accordance with established State procedures.

The Director of the Division of Elections will have final signing authority for HAVA expenditures. Any interest earned on this trust fund will be returned to the principal amount of the trust.

Standard auditing procedures for monitoring the use of federal funds will be used for the receipt and the distribution of HAVA funds. These standard procedures include random program audits by the Department of State Inspector General as well as an annual audit by the Florida Auditor General.

The Governor and Secretary of State will be responsible under HAVA for ensuring compliance with these requirements. The HAVA Planning Committee recommends that the Governor and the Secretary of State maintain contact with the Senate President and the Speaker of the House of Representatives to ensure they remain aware of the strict requirements set in law for the use of HAVA monies placed in this trust fund.

Element 6 – Florida’s Budget for Implementing the Help America Vote Act of 2002 (HAVA)

The State’s proposed budget for activities under this part, based on the State’s best estimates of the costs of such activities and the amount of funds to be made available, including specific information on –

- (A) the costs of the activities required to be carried out to meet the requirements of Title III;
- (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and
- (C) the portion of the requirements payment which will be used to carry out other activities.

Introduction

The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. This budget reflects the HAVA Planning Committee’s best efforts to divide the funds that may be available during the three years identified in HAVA. If Florida receives more funds than are included in this budget, the HAVA Planning Committee will revise the budget to reflect this change.

During the HAVA Planning Committee discussions, members determined the following to be priorities for using HAVA funds in Florida:

Reimbursement for replacement of punch card and lever machines.

Following the 2000 General Election, the State of Florida assisted counties by investing approximately \$24 million to replace outdated voting machines. Under Section 102 of HAVA, the State of Florida is eligible to receive as a reimbursement approximately \$11.7 million. The HAVA Planning Committee recommends that HAVA funds be distributed to the State and to each county that replaced outdated punch card and lever voting machines following the 2000 General Election on a pro rata basis.

Statewide Voter Registration System.

The HAVA Planning Committee recommends \$1 million in HAVA funds be used for Phase One development of the statewide voter registration system required under Title III. These funds will be used for a variety of consulting fees, purchases of hardware and software for system development, expenses incurred by staff in the Division of Elections and travel expenses for advisory board members who assist with design of the project.

For the development and operation of the new statewide voter registration system required under HAVA, the HAVA Planning Committee recommends that the State of Florida create nine new positions.

- Two positions under the Department of Highway Safety and Motor Vehicles
- Two positions under the Department of Law Enforcement
- Five positions under the Department of State

It is anticipated that a significant portion of HAVA funds will be used for the design and implementation of the statewide voter registration database. Research conducted during Phase One of the system development will provide the State of Florida with an estimate of the cost of the new voter registration system. A preliminary estimate of \$18.5 million has been included in this budget. However, a more precise figure will be determined during Phase One of the system development process and the HAVA Planning Committee will include this new figure in the next update of the HAVA State Plan, if available.

Section 301 Accessible Voting Systems

The HAVA Planning Committee recommends, in order to meet HAVA accessibility for voters with disabilities requirements, the purchase of Direct Recording Equipment (DRE) accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The estimated cost is \$11.6 million during the 2004-2005 fiscal year.

In addition, the HAVA Planning Committee recommends reimbursing counties that have already purchased voting systems that meet the HAVA accessibility for voters with disabilities requirements. The estimated cost for this reimbursement is \$17 million.

Voter Education

The HAVA Planning Committee recommends using HAVA funds for the development and implementation of a comprehensive statewide voter education program. The estimated expenditure is a total of \$9 million distributed to the counties and spread over the 2003-2004, 2004-2005 and 2005-2006 fiscal years.

Poll Worker Training

The HAVA Planning Committee recommends using HAVA funds in the amount of \$250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006 for poll worker training. These funds are intended to supplement each county's existing poll worker training budget.

Statewide Pollworker Recruitment Campaign

The HAVA Planning Committee recommends that HAVA funds be used to implement, through the Division of Elections, a statewide campaign to help recruit qualified pollworkers. The increase in the complexity of voting systems and procedures has resulted in a need for more computer literate individuals to staff the polling places and help ensure error-free elections. It is estimated that \$500,000 in HAVA funds should be expended by the Department of State in the 2003-2004 fiscal year.

HAVA Oversight and Reporting

The HAVA Planning Committee recommends that the Department of State create three full time positions to manage HAVA implementation. The estimated cost for HAVA oversight and reporting is \$206,079 for the 2003-2004 fiscal year, \$196,485 for the 2004-2005 fiscal year and \$200,719 for the 2005-2006 fiscal year.

- HAVA administrator
- Grants specialist
- Administrative assistant

State Management (HAVA Planning Committee)

The HAVA Planning Committee recommends that the Secretary of State require it to meet twice each year in 2003-2004 and in 2004-2005 to make recommendations and to resubmit the HAVA State Plan to ensure that Florida is meeting the requirements of the Help America Vote Act. This participatory process will convene once in the 2003-2004 fiscal year at an estimated cost of \$30,000, twice in the 2004-2005 fiscal year at an estimated cost of \$60,000 and once in the 2005-2006 fiscal year at an estimated cost of \$30,000.

Performance Goals and Measures Adoptions

The HAVA Planning Committee recommends the Secretary of State utilize the HAVA Planning Committee to determine performance goals and measures. The estimated cost is \$160,000 to be expended in the 2003-2004 and 2004-2005 fiscal years.

Election Administration

The HAVA Planning Committee recommends HAVA funds be used for the design and production of new voter registration forms and publications, and translations for all election administration forms and publications. The estimated cost is \$250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006.

Complaint Procedures

Section 402(a) of HAVA requires each State to establish State-based administrative complaint procedures for any person who believes that there is or will be a violation of any of HAVA's Title III requirements. The HAVA Planning Committee recommends that HAVA funds in the amount of \$50,000 per year for the 2004-2005 and 2005-2006 fiscal years be budgeted for the administration of the complaint procedures process.

Requirement 6

- (A) Based on the State's best estimates, what are the costs of the activities required to carry out to meet the requirements of Title III?**
- (B) What portion of the requirements payment will be used to carry out activities to meet such requirements?**
- (C) What portion of the requirements payment will be used to carry out other activities?**

This information is displayed in charts on pages 53 and 54.

HAVA Estimated Budget Funding by Fiscal Year				
	2003-2004	2004-2005	2005-2006	Total
Title I Requirements				
Reimbursement for replacement of punch card and lever machines. (Section 102 HAVA)	11,740,000*			11,740,000
Title III Requirements				
Sec. 303 Statewide Voter Registration System				
Phase One Development –research, planning & design (Section 101 HAVA Funds)	1,000,000*			1,000,000
9 full time positions – salaries	520,000*	533,000	546,325	1,599,325
9 full time positions – expenses	125,235*	97,686	97,686	320,607
Operating capital outlay	13,500*	TBD	TBD	13,500
Phase Two - Develop and implement statewide voter registration system (Section 252 Requirements Payment)		9,250,000	9,250,000	18,500,000
Sec. 301 Voting System Standards (Section 252 Requirements Payment)				
Accessibility for voters with disabilities (compliance)		11,600,000		11,600,000
Accessibility for voters with disabilities (reimbursement to counties)			17,000,000	17,000,000
Other Election Reform Activities (Section 101 HAVA funds 2003-2004 activities; Section 101 and Section 252 HAVA fund activities 2004-2005 and beyond)				
Voter Education Programs	3,000,000*	3,000,000	3,000,000	9,000,000
Poll worker Recruitment Statewide campaign	500,000			500,000
Poll worker Training	250,000	250,000	250,000	750,000
HAVA Oversight and Reporting				
3 full time positions – salaries	165,230*	169,361	173,595	508,186
3 full time positions – expenses	35,849*	27,124	27,124	90,097
Operating capital outlay	5,000*	TBD	TBD	5,000
State Management (HAVA Planning Committee)				
HAVA Planning Committee convenes twice each year (\$30k/mtg)	30,000	60,000	30,000	120,000
HAVA Performance Goals & Measures Adoption HAVA Planning Committee hearings – 4 at \$40k/mtg	80,000	80,000		160,000
Election Administration – design and production of new voter registration forms and publications, translations for all election administration forms and publications.	250,000*	250,000	250,000	750,000
Complaint Procedure §402		50,000	50,000	100,000
Total	17,714,814	25,367,171	30,674,730	73,756,715

* These items were included in the 2003-2004 General Appropriations Act as passed by the Legislature and signed by the Governor. All expenditures in 2003-2004 will be from Section 101 and Section 102 HAVA funds.

GLEND E. HOOD
SECRETARY OF STATE
STATE OF FLORIDA

STATE OF FLORIDA
HAVA PLAN / 54

	Election Reform Estimated Revenues 2003-2005 Fiscal Years			
	HAVA 101	HAVA 102	HAVA 252	Total Federal Funds
2003 Estimate	\$ 14,720,000	\$ 11,740,000	\$ 47,528,000	\$ 73,988,000
2004 Estimate	0	0	TBD	TBD
2005 Estimate	0	0	TBD	TDB

021437

Element 7. Maintenance of Effort

How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

Introduction

The funding provided under the Help America Vote Act of 2002 (HAVA) is intended to pay for new or enhanced election efforts and is not intended to supplant existing funding at the State or county level. The projected HAVA budget is based on the assumption that the State of Florida and counties will maintain the foundation of election operating expenditures for the fiscal year ending prior to November 2000.

The Florida Division of Elections provides statewide coordination and direction for the interpretation and enforcement of election laws. The Division's budget supports year-round staff that provides election-related assistance to Florida's 67 county supervisors of elections and their staff, municipalities, special districts, county and city attorneys, candidates, political committees, committees of continuous existence, elected officials, media, the public and other election officials throughout the United States.

Section 254(a)(7) How will the State of Florida maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000?

In determining Florida's maintenance of effort expenditures, the Division of Elections calculated 1999-2000 fiscal year expenditures which included salaries and benefits, operating capital outlay and voter fraud programs for the Division of Elections Director's office and the portion of Bureau of Election Records' expenditures pertaining to election administration. Florida's expenditures for these activities for 1999-2000 fiscal year totaled \$3,082,224.

In order to comply with Section 254(a)(7) of HAVA, the Florida Department of State will maintain expenditures on similar activities at a level equal to the 1999-2000 fiscal year budget.

The HAVA Planning Committee recommends that the Secretary of State communicate to the Senate President and the Speaker of the House of Representatives the importance of maintaining this maintenance of effort figure, as a minimum level of expenditures, to ensure the required level of spending is appropriated by the Florida Legislature.

Element 8. Performance Goals and Measures

How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

Introduction

Florida has a very decentralized election governance and administrative system. The Secretary of State is appointed by the Governor and is the legal Chief Election Official in Florida. However, the Secretary of State does not supervise the day-to-day operations of the 67 local supervisors of elections and only provides guidance through technical assistance, rules, advisory opinions, voting system certification, and producing standardized election forms.

In Florida, it is the local supervisor of elections that has constitutional authority to conduct elections through State law and rule. The supervisors are elected to 4-year terms by the registered voters of their respective counties (except for Miami-Dade's appointed supervisor) and have broad authority to conduct the day-to-day election operations by appointing local election officials, administering voter registration, preparing ballots, administering absentee voting, conducting poll worker training, and developing voter education programs.

Yet, the new Help America Vote Act of 2002 (HAVA) requires the State and not the local supervisors to adopt performance goals and measures for determining statewide and local election reform success.

It should be noted that Florida already requires certain reports on the performance of voting systems and voter education. By December 15 of each general election year, the Florida Legislature requires local supervisors of elections to report on performance measures such as overvotes and undervotes, ballot designs, and voting instructions (Section 101.595, *Florida Statutes*). Similarly, the Florida Legislature requires local supervisors of elections by December 15 of each year following a general election to prepare a public report on the effectiveness of voter education programs (Section 98.255(3)(a), *Florida Statutes*).

However, neither of these statutes follows the specific format that is required under HAVA. Nor do the statutes or rules outline performance measures for the remaining elements of the HAVA State Plan.

Florida must comply with this HAVA requirement. The most effective and egalitarian way for Florida to define election reform success of HAVA is to carry out a collaborative process similar

to the HAVA Planning Committee. The participatory process will ensure that Florida will clearly define the goals, the success measures, the timetables, and accountable officials through a public forum consisting of State election officials, local election officials, and interested citizens.

Section 254(a)(12) How will Florida adopt performance goals and measures that will be used by the State to determine its success and the success of local government in carrying out the plan, including—

- **Timetables for meeting the elements of the plan**
- **Descriptions of the criteria the State will use to measure performance**
- **The process used to develop such criteria**
- **A description of which official is to be held responsible for ensuring that each performance goal is met?**

In the spirit of HAVA and in participatory election reform, the HAVA Planning Committee recommends that the Secretary of State utilize the HAVA Planning Committee for determining its performance measures and goals for successfully carrying out the HAVA State Plan. The composition of the HAVA Planning Committee consists of State and local election officials, along with interested citizens. The overall goals of the HAVA Planning Committee are:

1. To recommend specific success factors, outline timetables, and assign accountability toward meeting the goals of the HAVA State Plan.
2. To continue building public participation and confidence in Florida's election reform process.

The HAVA Planning Committee should begin work as soon as possible and finish its work no later than the end of 2003. It should conduct its business in the same manner as the HAVA State Plan was developed utilizing locations around the State to encourage public participation. The HAVA Planning Committee suggests that the Secretary of State use a qualified facilitator to assist in this process. The funding to develop the performance goals and measures should come from HAVA Section 101 federal funds.

The HAVA Planning Committee should take each element of the HAVA State Plan and provide specific State and local criteria which are measurable and within HAVA deadlines. The HAVA Planning Committee should define the HAVA State Plan elements and prepare specific goals and measurements to determine success. The HAVA Planning Committee should address the following 13 planning elements:

1. Voting Systems—Absentee ballot issues, Accessibility issues (Not in compliance)
2. Provisional Voting and Information (Not in compliance)
3. Voter Registration System (Not in compliance)

021440

4. Voter Education Programs, Election Official Training, and Poll Worker Training (In compliance)
5. Voting System Guidelines and Process (In compliance)
6. State Trust Fund (In compliance)
7. State Budget (In compliance)
8. Maintenance of Effort (In compliance)
9. Administrative Complaint Process (In compliance)
10. Title One Payments and Activities (In compliance)
11. State HAVA Management (In compliance)
12. Changes to HAVA State Plan (In compliance)
13. HAVA Planning Committee and Procedures (In compliance)

The measurable criteria should provide State and local election officials clear information about what stage, how and who is implementing the HAVA State Plan. Listed below is a sample of how the HAVA Planning Committee might outline and define performance goals and measures. Included in this process would be a description of the major elements, the mandated deadline, goals of the planning element, measurable criteria, and the accountable official.

Sample Performance Measure

Planning Element:	Accessible Voting Systems
HAVA Deadline:	January 1, 2006
Goal:	Provide one accessible voting system for every polling place.
Measurement:	<ul style="list-style-type: none">• Division of Elections certifies eligible voting systems;• Local Supervisors submit recommendations for purchase of certified voting systems;• Legislature or Board of County Commissioners appropriates funds for certified voting systems;• Division of Elections conducts statewide census of one certified machine for persons with disabilities for every polling place;• Local Supervisors certify that one accessible voting system is functioning for every polling place.
Timetable:	Begin August 1, 2003 End December 1, 2005
Accountable Official:	Chief, Bureau of Voting Systems Certification

Element 9. State-Based Administrative Complaint Procedures to Remedy Grievances

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

Introduction

To receive any requirements payment pursuant to the Help America Vote Act of 2002 (HAVA), the State of Florida must establish and maintain State-based administrative complaint procedures which meet HAVA's requirements to:

- (1) be uniform and nondiscriminatory;
- (2) provide that any person who believes that there is or will be a violation of any of HAVA's Title III requirements may file a complaint;
- (3) require the complaint to be in writing, sworn and notarized;
- (4) permit complaints to be consolidated;
- (5) hold a hearing on the record at the request of the complainant;
- (6) provide an appropriate remedy if the State determines that there is a violation of any Title III provision;
- (7) if the State determines there is no violation, dismiss the complaint and publish the results of procedures;
- (8) make a final determination on a complaint within 90 days after filing unless the complainant consents to a longer period; and,
- (9) use alternative dispute resolution procedures to resolve the complaint if the State fails to resolve it within 90 days.

Section 402(a): Has Florida complied with the requirements of HAVA Section 402(a) to establish State-based administrative complaint procedures to remedy grievances?

Yes, and no further actions are required.

Appropriate administrative complaint procedures were included in Chapter 2003-415, *Laws of Florida*. Language in the legislation tracked HAVA's language closely. These procedures are similar to administrative procedures in Section 97.023, *Florida Statutes*, for resolving complaints generated by alleged violations of the National Voter Registration Act of 1993 or a voter registration or removal procedure under the Florida Election Code.

Florida's legislation established a new Section 97.0535, *Florida Statutes*, that, in addition to tracking HAVA's minimum requirements, included the following additional requirements not specified by HAVA:

- (1) the Department of State would have sole jurisdiction for these purposes and the procedures would be the sole avenue of redress for alleged Title III violations;
- (2) a complaint would have to state the alleged violation and the person or entity responsible for the violation;
- (3) the Department of State would be required to inform a complainant in writing if a complaint was legally insufficient;
- (4) proceedings would be exempt from Chapter 120, *Florida Statutes*, (Administrative Procedures Act);
- (5) a hearing would be held by a hearing officer whether or not a complainant requested a hearing and specific procedures for a hearing were included in the legislation;
- (6) the hearing officer would direct an appropriate remedy that then would be enforced by the Department of State;
- (7) mediation would be the alternative dispute resolution method used if a final determination on a complaint was not made within 90 days of filing.

Element 10. Effect of Title I Payments

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Introduction

Title I of the Help America Vote Act of 2002 (HAVA) is an "early out" money program for use in two areas—improving election administration and the replacement of punch card and lever voting systems. Each State is guaranteed to receive a minimum of \$5 million under this program. The HAVA Planning Committee recommends using Section 101 HAVA funds for 2003-2004 activities and a combination of Section 101 and Section 252 HAVA funds for activities beginning in the 2004-2005 fiscal year and beyond.

Under Title I, Section 101 funds are to be used to improve election administration. Approved use of funds under this section includes:

- (A) Complying with the requirements under Title III.
- (B) Improving the administration of elections for Federal office.
- (C) Educating voters concerning voting procedures, voting rights, and voting technology.
- (D) Training election officials, poll workers, and election volunteers.
- (E) Developing the HAVA State Plan for requirements payments.
- (F) Improving, acquiring, leasing, modifying, or replacing voting systems.
- (G) Improving polling place accessibility for voters with disabilities or with limited English.
- (H) Establishing toll-free telephone hotlines for voters to access voting information, report voting fraud, or report voting rights violations.

Under Title I, Section 102 funds are to be used to replace punch card and lever voting systems.

The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. The following recommendations are based on the HAVA Planning Committee meetings held to develop the HAVA State Plan.

Section 101. How will Title I payments to Florida be used for activities to improve administration of elections?

The State of Florida will use Title I funds for election reform activities necessary to ensure Florida complies with all HAVA requirements. The following list describes the major areas in which funds may be used.

(A) Complying with the requirements under Title III

The Division of Elections will implement a statewide voter registration system to comply with HAVA Title III. The Division of Elections anticipates using \$1 million appropriated from Section 101 funds for Phase One development of the new Statewide Voter Registration system. Expenditures for Phase One will include:

- Consulting fees which will be required for conducting a detailed analysis of connectivity infrastructure available in the 67 supervisor of elections' offices and within all affected offices of the departments of State, Law Enforcement and Highway Safety and Motor Vehicles; working with the counties, the three agencies and the advisory board to create minimum and optimum sets of system requirements; assessing infrastructure needs of all stakeholders to serve the system requirements; conducting "gap" analysis; outlining the physical design of the system; estimating costs and implementation plans for each version for the system to be presented to the 2004 Legislature; and developing and publishing the January 2004 report and recommendations for the 2004 Legislature.
- Purchase hardware and software for project management and system development.
- Expenses incurred by Division of Elections' staff.
- Travel expenses which will involve visiting every supervisor of elections' office and local driver license office.

In addition, Section 101 HAVA funds will be used to create nine full time positions necessary for the design, development and implementation of the Statewide Voter Registration system.

(B) Improving the administration of elections for Federal office.

Upon receipt of Title I monies, it is recommended that the Division of Elections use \$250,000 in fiscal year 2003-2004 from Section 101 funds for expenses that include the design and publication of voter registration forms and other election information, translations for all election administration forms and publications, statewide voter education programs and training workshops.

In addition, funds will be required to establish a State-based complaint procedure for anyone who believes that a violation of Title III of the Help America Vote Act has occurred, is occurring or is about to occur. It is estimated that this process will be established at an estimated cost of \$100,000. If no Title I funds are remaining, this activity will be funded from Section 252 HAVA funds.

(C) Educating voters concerning voting procedures, voting rights, and voting technology.

Upon receipt of Title I monies, it is recommended that the Florida Division of Elections use approximately \$9 million over a three year period for voter education programs.

These funds will be divided among Florida's 67 counties. To determine the amount each county will receive, the Division of Elections shall divide the total amount of funds appropriated by the total number of registered voters in the State of Florida for the 2002 General Election to establish a funding level per individual voter. Each county shall receive an amount equal to the funding level per individual voter multiplied by the number of registered voters in the county, as certified by the Department of State for the 2002 General Election.

(D) Training election officials, poll workers, and election volunteers.

The HAVA Planning Committee recommends using HAVA funds in the amount of \$250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006 for poll worker training. These funds are intended to supplement each county's existing poll worker training budget.

(E) Developing the HAVA State Plan for requirements payments to be submitted under part 1 of subtitle D of Title II.

There are no plans to use Title I funds for the development of Florida's HAVA State Plan for 2003-2004 fiscal year. As the State of Florida modifies its plans in future years, HAVA funds may be used.

(F) Improving, acquiring, leasing, modifying, or replacing voting systems.

Florida has already replaced its punch card and lever voting systems. It is recommended that Section 102 funds be used to reimburse the State and each eligible county, on a pro rata basis, for punch card and lever machines purchased in 2001-2002 and 2002-2003 fiscal years.

The HAVA Planning Committee also recommends that the State of Florida utilize some HAVA funds to help counties meet the accessibility requirements under Title III by the January 1, 2006 deadline. The estimated amount to comply with this requirement is \$11.6 million and the funds would be distributed according to the number of accessible DREs for each county to have one audio ballot per polling